
STATUTORY INSTRUMENTS

2011 No. 1121

The Mandatory Travel Concession (England) Regulations 2011

Part 5

Applications to the Secretary of State

Application

22. Regulations 23 to 32 apply to applications to the Secretary of State under section 150(3) of the Act for the modification of reimbursement arrangements.

Written Statements

23.—(1) The applicant must, with the notice required to be given under section 150(4) of the Act, submit to the Secretary of State a written statement of—

- (a) the grounds for the application; and
- (b) any reasons or other matters which that person considers to be relevant to the application.

(2) The applicant must, at the same time as submitting the notice and statement to the Secretary of State, send a copy of that notice and of that statement to the travel concession authority.

24.—(1) The Secretary of State may request from the travel concession authority a written statement of any matters which it considers to be relevant to the application.

(2) Subject to regulation 30, the travel concession authority must within 28 days of it having received a request under paragraph (1) submit the written statement to the Secretary of State.

(3) At the same time as it submits the written statement to the Secretary of State, the travel concession authority must send a copy of it to the applicant.

25.—(1) Subject to regulation 30, the Secretary of State may, after the travel concession authority has submitted its written statement, request the applicant or the travel concession authority, or both of them, to submit to the Secretary of State such further written statements and documents as the Secretary of State may direct.

(2) Any such further statements and documents must be submitted within such time as the Secretary of State may direct, but such time must not, unless the applicant and the travel concession authority otherwise agree, be less than 14 days commencing with the date of the Secretary of State's request.

(3) The applicant or the travel concession authority (as the case may be) submitting any further statement or document to the Secretary of State must at the same time send a copy of it to (as appropriate) the travel concession authority or the applicant.

Hearings and Procedure

26.—(1) The Secretary of State may, after the submission of the last written statement or document required under regulations 23 to 25, invite the applicant or the travel concession authority to appear before the Secretary of State.

(2) When the Secretary of State makes an invitation under paragraph (1), the Secretary of State must also invite the applicant or the travel concession authority not invited under that sub-paragraph to be present.

(3) The hearing pursuant to an invitation from the Secretary of State under this regulation must take place not less than 14 days after the date of that invitation (or, if invitations were given on separate dates, the date of the last of those invitations).

(4) The applicant may appear in person or be represented by counsel, solicitor or any other person.

(5) A travel concession authority may appear by any officer appointed for that purpose, or be represented by counsel, solicitor or any other person.

27. If the applicant or the travel concession authority fails—

- (a) to submit any statement or documents within the time specified by the Secretary of State; or
- (b) to appear before the Secretary of State in response to an invitation from the Secretary of State,

the Secretary of State may nevertheless proceed with the determination of the application.

28.—(1) Subject to regulation 27, at any hearing the Secretary of State must give to the applicant and the travel concession authority an opportunity—

- (a) to address the Secretary of State and to amplify the written statement submitted under this Part, to give evidence, to call witnesses, and to put questions to any person giving evidence before the Secretary of State; and
- (b) to make representations on the evidence (if any) and on the subject matter of the application generally but, where evidence is taken, such opportunity is not to be given before the completion of the taking of the evidence.

(2) The Secretary of State may receive in evidence any document or information notwithstanding that such document or information would be inadmissible in a court of law.

(3) Except as otherwise provided in this Part, the procedure at any hearing is to be determined at the discretion of the Secretary of State.

29.—(1) The decision of the Secretary of State, including any decision to increase, decrease or leave unchanged the amount to be paid to an applicant by way of reimbursement, must be recorded in a document signed by or on behalf of the Secretary of State and dated when so signed.

(2) Such document must contain a summary of the reasons for the decision of the Secretary of State.

(3) A copy of the document recording the decision of the Secretary of State must be sent to the applicant and the travel concession authority.

(4) Except where a decision has been announced at the conclusion of a hearing, the decision is to be treated as having been made on the date on which the copy of the document is sent to the applicant.

30.—(1) In this regulation a reference to a “third party” is a reference to a person who is or was an operator but is not the person making the application in question.

(2) Any statement or document submitted by a travel concession authority, and any statement made on behalf of a travel concession authority appearing before the Secretary of State, must not

contain any information relating to the reimbursement of a third party where that information was received by the authority from that third party pursuant to reimbursement arrangements.

(3) Paragraph (2) does not apply where the third party has given consent in writing to the inclusion of the information.

31. When the Secretary of State determines an application, the Secretary of State may, after giving them an opportunity to make representations, require the applicant or the travel concession authority, or both of them, to pay such a sum as the Secretary of State may determine towards the expenses incurred by the Secretary of State in connection with the determination of the application.

32.—(1) If the Secretary of State appoints a person to determine an application on behalf of the Secretary of State, the Secretary of State must give notice in writing of the appointment to the applicant and the travel concession authority.

(2) If the Secretary of State appoints a person to determine an application on behalf of the Secretary of State, references in regulations 23 to 30 to the Secretary of State must be read, with effect from the date of the appointment, as references to the person so appointed.