Draft Order laid before Parliament under section 49(5) of the Tribunals, Courts and Enforcement Act 2007, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2014 No.

TRIBUNALS AND INQUIRIES, ENGLAND AND WALES

The Transfer of Tribunal Functions (Transport Tribunal) Order 2014

Made - - - - ***

Coming into force in accordance with article 1

The Lord Chancellor makes the following Order in exercise of the powers conferred by sections 30(1)(b) and (4) and 38 of the Tribunals, Courts and Enforcement Act 2007(**a**).

A draft of this Order was laid before Parliament and approved by resolution of each House of Parliament in accordance with section 49(5) of that Act.

Citation and commencement

1. This Order may be cited as the Transfer of Tribunal Functions (Transport Tribunal) Order 2014 and comes into force on the day after the date on which it is made.

Transfer of functions of Transport Tribunal

2.—(1) The functions conferred on the Transport Tribunal by the provisions of the Transport Act 2000(**b**) specified in paragraph (2) are transferred to the Upper Tribunal.

(2) The provisions are—

(a) section 127A (appeals against the making of schemes for areas in England)(**c**);

(b) section 127B (powers of the Transport Tribunal on an appeal under section 127A)(**d**);

(c) section 131E (appeals where proposed continuation considered exempt)(**e**);

(d) section 131F (appeals where proposed continuation considered non-exempt)(**f**);

(e) section 132 (variation or revocation of scheme)(**g**);

(f) section 132A (appeals where proposed variation considered exempt)(**h**);

(**a**) 2007 c.15

(**b**) 2000 c. 38. Sections 127A, 127B, 131E, 131F, 132A and 132B were inserted by sections 27(1), 35, 36, 38 and 39 of the Local Transport Act 2008 (c.26) respectively. Section 132 of the Transport Act 2000 was amended by section 37(1), (3) and (5) of the Local Transport Act 2008.

(**c**) Section 127A came into force in relation to England on 11 January 2010.

(**d**) Section 127B came into force in relation to England on 11 January 2010.

(**e**) Section 131E came into force in relation to England on 11 January 2010. It is not in force in relation to Wales.

(**f**) Section 131F came into force in relation to England on 11 January 2010.

(**g**) Section 132 as amended by section 37 of the Local Transport Act 2008 (c.26) came into force in relation to England on 11 January 2010. It is partially in force in relation to Wales.

(**h**) Section 132A came into force in relation to England on 11 January 2010. It is not in force in relation to Wales.

(g) section 132B (exemption from section 132 for specific variations directed by Tribunal)(**a**).

Consequential and transitional provisions

3.—(1) Schedule 1 (consequential amendments of primary legislation) has effect.

(2) Schedule 2 (transitional and saving provisions) has effect.

Signed by the authority of the Lord Chancellor

Name
Parliamentary Under-Secretary of State
Ministry of Justice

Date

SCHEDULE 1

Article 3(1)

Consequential amendments of primary legislation

Transport Act 2000

1. The Transport Act 2000 is amended as follows.

2. In each of the following provisions, for "Transport" substitute "Upper", namely—

(a) section 127A(2) (appeals against the making of schemes for areas in England);

(b) section 127B(1) (powers of the Transport Tribunal on an appeal under section 127A) and the heading to that section;

(c) section 131E(2), (3)(b) and (5) (appeals where proposed continuation considered exempt);

(d) section 131F(2) (appeals where proposed continuation considered non-exempt);

(e) section 132(4)(aa), (5) and (8)(d) (variation or revocation of scheme);

(f) section 132A(2), (3)(b) and (5) (appeals where proposed variation considered exempt);

(g) section 132B(2)(a) and (3) (exemption from section 132 for specific variations directed by Tribunal).

SCHEDULE 2

Article 3(2)

Transitional and saving provisions

1. Any proceedings before the Transport Tribunal under any of the provisions of the Transport Act 2000 specified in article 2(2) pending immediately before the date on which this Order comes into force shall continue on and after that date as proceedings before the Upper Tribunal.

2. Where proceedings are continued in the Upper Tribunal by virtue of paragraph 1—

(a) where a hearing began before the date on which this order comes into force but was not completed by that date, the Upper Tribunal must, for the continuation of that hearing, be comprised of the person or persons who began it;

(b) the Upper Tribunal may give any direction to ensure that proceedings are dealt with fairly and, in particular, may disapply provisions of the Tribunal Procedure Rules and apply the provisions of the Transport Tribunal Rules 2000(**b**) instead;

(**a**) Section 132B came into force in relation to England on 11 January 2010. It is not in force in relation to Wales.
(**b**) S.I. 2000/3226 as amended by S.I. 2001/4041, S.I. 2002/4041, S.I. 2002/643 and S.I. 2008/2142.

(c) any direction or order given or made in proceedings which is in force immediately before the date on which this Order comes into force remains in force on and after that date as if it were a direction or order of the Upper Tribunal;

(d) if—

(i) by virtue of the Transport Tribunal Rules 2000, a requirement on a person to do something by a specified date has effect immediately before the date on which this Order comes into force (the commencement date), and

(ii) that requirement has not been complied with by the commencement date,

the requirement to do the thing by the specified date continues to apply on and after the commencement date, and is to be treated as if it were a requirement imposed under the Tribunal Procedure Rules.

3. As regards proceedings arising under any provision specified in article 2(2)—

(a) where an appeal lies to the Court of Appeal from any decision made by the Transport Tribunal before the date on which this Order comes into force, the right of appeal has not been exercised and the time to exercise that right of appeal has not expired prior to that date, section 13 of the Tribunals, Courts and Enforcement Act 2007 (right of appeal to Court of Appeal etc) shall apply as if the decision were a decision made by the Upper Tribunal, and any reference to the Transport Tribunal in enactments relating to such an appeal, express or otherwise, is to be taken as a reference to the Upper Tribunal;

(b) any case remitted by a court on or after the date on which this Order comes into force and which, if it had been remitted before that date would have been remitted to the Transport Tribunal, shall be remitted to the Upper Tribunal.

4. A decision of the Transport Tribunal made under any provision specified in article 2(2) before the date on which this Order comes into force is to be treated on or after that date as a decision of the Upper Tribunal.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under the Tribunals, Courts and Enforcement 2007 ("the 2007 Act"). Part 1 of the 2007 Act created a two tier tribunal structure; the First-tier Tribunal and the Upper Tribunal are established under section 3 of the 2007 Act. Order making powers are provided under Part 1 of the 2007 Act to enable functions of existing tribunals to be transferred into the new structure. This Order transfers further functions of the Transport Tribunal to the Upper Tribunal. A previous transfer of functions was made by the Transfer of Tribunal Functions Order 2009 (S.I. 2009/1885).

Article 2 transfers functions of the Transport Tribunal which relate to bus quality contract schemes to the Upper Tribunal. The listed functions were added to Part 2 of the Transport Act 2000 (c. 38) by the Local Transport Act 2008 (c. 26).

Schedule 1 makes consequential amendments to the Transport Act 2000.

Schedule 2 contains transitional and savings provisions.

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