7. TRANSPORT TRIBUNAL RULES

The Transport Tribunal Rules, 1949

1949 No. 989

Made - - - - *26th April*, 1949

Coming into Operation *1st June*, 1949

By virtue of Section 22 of the Railways Act, 1921(**a**), and paragraphs 4 and 5 of the Tenth Schedule to the Transport Act, 1947(**b**), and of all other powers them enabling, the Transport Tribunal, with the approval of the Lord Chancellor, the Lord President of the Court of Session and the Minister of Transport, do hereby make the following Rules:—

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(a) 11 & 12 Geo. 5. c. 55. (b) 10 & 11 Geo. 6. c. 49.

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Citation and repeal.

1.—(1) These Rules may be cited as the Transport Tribunal Rules, 1949, and shall come into operation on the 1st day of June, 1949.

(2) The following Rules made by the Railway Rates Tribunal shall be annulled :—

The Railway Rates Tribunal Rules, 1922, dated June 27, 1922(**a**).

The Railway Rates Tribunal (Additional) Rules, 1928, dated December 19, 1928(**b**).

The Railway Rates Tribunal (Additional) Rules, 1929, dated May 24, 1949(**c**).

The Railway Rates Tribunal (Additional) Rules, 1934, dated January 1, 1934(**d**).

The Railway Rates Tribunal (Additional) Rules, 1934, (No. 2) dated March 13, 1934(**e**).

Interpretation of terms.

2. In the construction of these Rules and the forms herein referred to, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. The word " person " shall include a firm, association, authority, body or body corporate. The " Commission " means the British Transport Commission, and any reference to the Commission in relation to any functions of the Commission which are for the time being delegated to an Executive in pursuance of Section 5 of the Transport Act, 1947, shall be construed as a reference to that Executive. " Party " means any Applicant, Appellant, or Respondent named in any application, or notice of appeal.

Registrar.

3. There shall be appointed a Registrar of the Court (hereinafter called " the Registrar "), who shall perform the duties and exercise the functions hereinafter set forth and such other functions as may be directed by the Court. In the event of a vacancy in the office of Registrar or of the Registrar being absent or unable to perform his duties the Court may appoint any officer of the Court or other person to act for the time being as Registrar, and such deputy Registrar shall during the time for which he is so appointed have all the powers and exercise all the functions of the Registrar. The Registrar shall have an office in London, and an office in Edinburgh. All records shall be kept at the office in London where they may be inspected by any person and office copies had.

Lodging of Documents.

4.—(1) Every document required to be lodged with the Registrar shall, if lodged in connection with an Application whose subject matter is local to Scotland, be lodged in the Edinburgh Office, and in all other cases in the London Office:

Provided that all documents lodged in connection with Applications under Rules 37 and 38 shall be filed in the London Office.

(2) The Registrar shall determine in the first instance whether the subject matter of an Application is local to Scotland. Any party to the Application may appeal from the decision of the Registrar to the Court.

(3) All documents lodged in the Edinburgh Office shall be kept there for inspection until the final determination of the cause when they shall be transferred to the London Office. In the meanwhile copies shall be kept open for inspection at the London Office.

(a) S.R. & O. 1922 (No. 906) p. 903. (b) S.R. & O. 1928 (No. 1097) p. 1120.
(c) S.R. & O. 1929 (No. 414) p. 1232. (d) S.R. & O. 1934 (No. 1) II, p. 152.
(e) S.R. & O. 1934 (No. 374) I, p. 1047.

(4) Any person having his place of business outside the London Postal Area, or the Edinburgh Postal Area as the case may be, and not having any solicitor representing him therein, may lodge any document by sending the same by registered post addressed to the Registrar at his appropriate Office, and may pay any fees by post office order sent in the same manner.

Venue.

5.—(1) The Registrar shall sit at his Edinburgh Office to hear summonses arising out of Applications lodged in the Edinburgh Office, and at his London Office to hear all other summonses, but may with the consent of the President sit in such other place in England or Scotland as the case may be as having regard to all the circumstances may be convenient.

(2) Unless for special reasons the Court or the Registrar shall otherwise order, the Court shall sit in London to hear all applications under Rules 37 and 38, in Edinburgh to hear all applications whose subject matter is local to Scotland and in London to hear all other applications. In this Rule " Application " includes all proceedings arising thereout.

Interlocutory Application to the Court.

6. Every interlocutory application to the Court shall be made by lodging with the Registrar a notice of motion according to Form 1 in the First Schedule hereto. Every such notice shall be signed by the party or his solicitor. Upon the same being lodged the Registrar shall fix a date for hearing, and a signed and sealed copy of the notice shall be served on every other party to the cause (if any) or his solicitor, so that six clear days intervene between the day of service and the day fixed for hearing. If there be no other party to the cause the motion may be made ex parte, unless the Court or Registrar direct that notice thereof be served on any other person interested, though not a party.

Application to the Registrar.

7. Every application to the Registrar shall be made by lodging with the Registrar a summons setting out the order applied for in accordance with Form No. 2 in the First Schedule hereto. Every such summons shall be signed by the party or his solicitor, and a signed and sealed copy thereof shall be served on every other party to the cause (if any) or his solicitor so that six clear days intervene between the day of service and the return day. If there be no other party to the cause the application may be made ex parte unless the Registrar direct that the summons be served on any other person interested, though not a party, and the Registrar shall fix the date of hearing. Such application may, if the Registrar thinks fit, be adjourned by him to the Court for hearing. Any person affected by any order or decision of the Registrar may appeal therefrom to the Court, in accordance with Rule 46.

Application to the Court.

8. Every proceeding for a final order of the Court shall be commenced by an application signed by the applicant and lodged with the Registrar. Subject to these Rules every application shall be according to Form 3 in the First Schedule hereto, and shall contain the name and address of every respondent, if any, the name and place of business of the applicant, a concise statement of the facts forming the ground of the application, and the nature of the Order claimed. It shall be indorsed with an address for service which may be that of a solicitor or agent.

The Court or Registrar may at any time order that Public Notice of any application be given by advertisement or otherwise, or that Express Notice thereof be given to any particular person. Any such notice may include a statement as to who are entitled to lodge objections or representations or to be heard on the application or to apply to be added as respondents thereon.

Lodging of Application.

9. Every Application shall be stamped with the appropriate stamp and lodged with the Registrar at the office of the Court, together with six copies for the Court. The original and as many signed copies as are required for service shall be sealed and dated by the Registrar. The Registrar shall make out a list of the applications so lodged according to the order in which they are received by him, and such list shall be open to public inspection at the Edinburgh Office and the London Office during office hours. Each Application shall be marked with the year in which it is filed and a serial number representing its place in the list of applications for that year. The year and serial number shall be placed at the head of all documents relating to the cause.

Additional Parties.

10.—(1) Any number of applicants may be added to the Application, in which case the names of all shall appear on all subsequent proceedings, and there shall be named in the Application some person, being either one of the applicants or a solicitor or some person in the regular employment of one of the applicants, as the person on whom any summons or notice may be served as representing all the applicants.

(2) An applicant may add as respondents to his application all persons against whom the same remedy is sought on the same facts, and every such respondent shall put forward a separate defence.

Separate causes of Action.

11. Different remedies may be claimed cumulatively or in the alternative in the same application provided they arise out of the same facts.

Procedure where no Respondent named.

12. Subject to these Rules, where no respondent is named the applicant shall lodge with the Application an ex parte summons for directions as to publication and service of the application or respondents being added.

Indorsement on Application.

13. Where one or more respondents are named the copy of the application to be served on each shall be indorsed with a notice requiring him to lodge an answer to the application within fifteen days from the service thereof, and stating that in default of such answer being lodged within the time named, or any extension thereof duly granted, the Court may proceed to hear the application in his absence. Such indorsement shall be according to Form No. 4 in the First Schedule hereto, and shall be sealed by the Registrar with the seal of the Court.

Service of Application.

14. A sealed copy of the application signed and indorsed as required by Rule 13 shall be served upon each respondent by leaving the same with him or with his manager, secretary or clerk at his principal office or place of business in any part of the United Kingdom, or in such other manner as the Court or Registrar may direct.

Additional Respondents.

15. The Court or Registrar may at any time order any person to be added as Respondent, either on his own application or wherever such addition appears to be necessary or more convenient for the just determination of the matter.

Objections and Representations.

16.—(1) Subject to any special directions given by the Court or Registrar in a particular Case any person claiming to have any objection or other representation heard by the Court shall not less than seven days before the date fixed for the hearing of the application lodge with the Registrar, a notice of his objection or other representation signed by himself in accordance with Form 5 in the First Schedule hereto, stating his name, description and address and the nature of his interest, and stating whether he supports or opposes the application before the Court and his reasons therefor, and if he desires any modification or variation of the proposals before the Court particulars of such modification or variation; and shall within the same period serve on every other party to the cause a Signed and Sealed copy of such notice.

Every such copy for service shall be signed by the person giving the notice and sealed with the seal of the Court, and six additional copies for the Court shall be left with the Registrar.

(2) Any body claiming to be heard as a representative body shall include in such notice particulars of the class represented and the nature of its authority.

Answer.

17. Within 15 days from the service of the application, a respondent shall lodge with the Registrar an answer in accordance with Form 6 in the First Schedule hereto together with six copies for the Court, and shall at the same time serve on the applicant at his address for service a further copy, signed by or on behalf of the respondent and sealed with the seal of the Court. The answer shall contain a clear and concise statement of the facts which form the ground of defence, and of any other objections relied upon, and shall be signed by the respondent or, on his behalf, by one who is acquainted with the facts stated therein. It shall be indorsed with an address for service which may be that of a solicitor or agent.

Proceedings on Default of Answer.

18. If any respondent make default in lodging his answer the applicant may proceed as if the answer of that respondent had been lodged on the last day for lodging the same, but that respondent will not be heard by the Court except by special leave and subject to any terms the Court sees fit to impose.

Summons for Directions.

19.—(1) After the lodging of the answer or the expiration of the time therefor, or, in the case of more than one respondent, the last answer, the applicant shall lodge a summons for directions.

(2) Any party may include in a summons for directions any application he may desire to make for further pleadings, amendment, particulars, list of documents and production of documents, leave to administer interrogatories, the appointment of additional members of the Court from the panels set up under Section 24 of the Railways Act, 1921, the fixing of time and place of trial, and generally as to the conduct of the cause, and for the prescription of any matter required to be prescribed by the Court.

Further Pleadings.

20.—(1) No pleading subsequent to answer shall be pleaded without leave of the Court or Registrar.

(2) The Registrar shall send a copy of the pleadings to the Minister of Transport when they are closed.

Amendment of Pleadings.

21. The Court or Registrar may at any stage of the proceedings allow any pleadings to be amended, or may order to be struck out any matters which may tend to prejudice, embarrass, or delay the fair hearing of the cause, and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties.

Interrogatories.

22.—(1) Any party may apply to the Registrar for leave to administer interrogatories in writing for the examination of any opposite party. The interrogatories proposed shall be annexed to the summons.

(2) The Registrar may authorise interrogatories to be answered by affidavit or in writing unsworn and they may be answered partly by one person and partly by another or others, but in all cases the person answering shall state in his answer his means of knowledge and if any person interrogated omits to answer or answers insufficiently, the party interrogating may apply to the Registrar for an Order requiring him to answer, or to answer further as the case may be.

Lists of Documents.

23.—(1) Any party may, without lodging any affidavit, apply by summons for an Order directing any other party to deliver a list of the documents which are or have been in his possession or power relating to the matter in question. The summons shall specify the general character and description of the documents sought to be listed.

(2) On any such Application, the Registrar may direct that the list of documents be delivered with or without verification by oath, and may make such order as he thinks fit for the production and inspection of any document so disclosed.

Production of Documents for inspection.

24. Any party may at any time give notice to any other party to produce for inspection any document being in his possession and included in any list of documents delivered under Rule 23 or referred to in any pleading and to permit copies to be taken, and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence on his behalf in such proceeding without the leave of the Court.

Application for additional members.

25. Every Application for the appointment of additional members of the Court from the panels set up under Section 24 of the Railways Act, 1921, shall be made by summons not later than 21 days before the date fixed for the hearing of the cause.

Preliminary Meeting.

26. If it appear to the Court that it will be of advantage to hold a preliminary meeting or inquiry, they may so direct, and the parties shall attend such meeting or inquiry at such place and time as the Court or Registrar may appoint.

Preliminary Communication with the Parties.

27. The Court may, if they think fit, at any time during the proceedings communicate with the parties in writing, and may require answers to such inquiries as they may think fit to make.

Preliminary Questions of Law.

28. The Registrar may, by consent of the parties to any proceedings or on the application of any party, order any point of law raised by the pleadings to be set down for hearing by the Court and to be disposed of at any time before the hearing of the application. If, in the opinion of the Court, the decision of such point of law substantially disposes of the whole application, the Court may order that the argument shall be the hearing of the case, and thereupon may grant or dismiss the application or make such other order therein as to them may seem just.

Issues.

29. If it appear to the Court at any time that the statements in the application, answer or further pleadings do not sufficiently raise or disclose the issues in dispute between the parties, they may direct the parties to prepare issues, and such issues shall, if the parties differ, be settled by the Registrar.

Remission for Reports.

30. The Court may at any time either before or during the hearing remit the whole or any particular subject matter of the cause to an officer of the Court or other person appointed by them for inquiry and report.

Hearing on Report.

31. Any party may give notice to the Registrar and to the other parties concerned that they desire before the Court act upon any such report to be heard by the Court thereon, and thereupon may apply under Rule 34 to fix a date for hearing, but upon such hearing it shall not be open to any party to dispute the correctness of any statement of fact contained in such report, unless the Court shall for good cause shown allow any finding of fact therein to be reconsidered.

View.

32. In any case in which, in the opinion of the Court, a view is necessary or desirable, it may be had by one or more members of the Court, as the Court may direct.

Applications dismissed for want of prosecution.

33. Where no step is taken in a cause by either party for six months the Application shall be deemed to have been dismissed for want of prosecution without prejudice to the right of the Applicant to make a new Application on the same facts.

Fixing date and place of hearing.

34.—(1) At any time after the pleadings are closed any party may apply by summons to fix the date and place of hearing.

(2) The Registrar may either fix a named day for the hearing or may enter the cause in the list of causes for hearing in due rotation, and may direct that the same shall not be heard before a named day.

(3) There shall be exhibited for public inspection in the London Office and the Edinburgh Office, a list of all causes set down for hearing, showing the place and date fixed for the hearing of each cause, or in the case of causes for which no specific date is fixed the order in which they are to be taken.

Plans and Documents.

35. The parties shall leave with the Registrar, six days before the day fixed for the hearing, any maps, plans, diagrams, cartoons, tables or schedules of figures and Special Acts, or other documents referred to in the application, answer or other pleading, or which may be useful in explaining or supporting the same. Any such documents shall as far as possible be agreed by the parties before the hearing. The Registrar may require additional copies of any document left or lodged with him to be supplied for the Court by the party so leaving or filing the same.

Default of Appearance.

36. If at the time and place appointed for the hearing any applicant fail to appear the Court may dismiss his Application, or may adjourn the hearing, or may proceed with the Application if any other Applicant in the same cause is present. If any Respondent or other person entitled to be heard so fail to appear the Court may adjourn

the hearing or proceed to hear the Application in his absence. Any person who fails to appear as aforesaid and would have been entitled to be heard had he appeared may move the Court to reinstate the Application or for a re-hearing, and on such motion the Court may make any such order as the justice of the case may require.

Summary Procedure for Exceptional Rates and Classification.

37.—(1) The Registrar shall from time to time give public notice of the dates on which the Court will sit in London to hear:—

(*a*) Applications by Traders for the fixing of new Exceptional Rates or the reduction of existing Exceptional Rates.

(*b*) Applications by the Commission or a Railway Company for the consent of the Tribunal to the granting of new or the reduction of existing Exceptional Rates where such consent is required.

(*c*) Applications to determine any question as to the alteration of the Railway Classification of Merchandise, or the alteration of the Classification of any article, or the Classification of any article not at the time classified, or any question as to the class in which any article is classified.

(*d*) Applications as to the reductions to be made from the Standard Charges where damageable Merchandise is carried under Owner's Risk Conditions.

(2) If any such application is lodged not less than 21 days before any of the said dates, it shall not be necessary to serve the same on any Respondent, nor to apply for directions under Rule 12 or Rule 19, but the Applicant will be heard on the day so appointed as well as any other person who has lodged a notice under Rule 16.

(3) In any such application any number of Exceptional Rates or items of Classification may be included.

(4) Provided that any person may apply at any time to the Registrar or the Court for a direction that in the case of any particular Exceptional Rate or reduction for Owner's Risk, or any particular article classified or to be classified the ordinary procedure shall be followed, or the Court may so order without any application being made.

Agreed Charges under the Road and Rail Traffic Act, 1933(a).

38.—(1) Particulars of every Agreed Charge shall be lodged with the London Office within seven days of the date of the agreement, and for this purpose and for the purpose of lodging any application for the approval thereof the Registrar's Office shall be open, in addition to the time specified in Rule 65, during the month of August from 10 o'clock in the forenoon till 12 noon from Monday to Friday, excepting any day appointed by law to be a Bank Holiday.

(2) Every application for the approval of an Agreed Charge shall, except by leave of the Court or Registrar, relate to one agreement for one or more Agreed Charges.

(3) As from the date of lodging any such application the Applicant shall cause copies of the agreement referred to therein to be available for purchase and inspection in such manner and in such place as the Court or Registrar may from time to time direct.

(4) It shall not be necessary for the Applicant to apply for a summons for directions under Rule 12 or Rule 19, but he shall apply by summons to fix the date of hearing, and, not later than 21 days before the date so

(a) 23 & 24 Geo. 5. c. 53.

fixed, the Registrar shall, at the expense of the Applicant, give public notice of every such application by advertisement in the London Gazette and the Edinburgh Gazette, stating the date and place of hearing, and the date on or before which notice of objection must be lodged in accordance with Rule 16, and the places where copies of the agreement may be inspected, and where and how they may be obtained on payment.

(5) In every application for the approval of an Agreed Charge there shall be included a submission as to the manner in which the charge, if approved, shall be recorded, and as to the places at which copies of the agreement therefor shall be open to inspection.

Fixed charges under the Road and Rail Traffic Act, 1933.

39. On any application for the fixing of a charge under the Road and Rail Traffic Act, 1933, or for the withdrawal of the Tribunal's consent to an Agreed Charge the Applicant shall lodge with the application a summons for directions as to publication and service of the application.

Review of Agreed Charges and Exceptional Rates under Section 39 of the Road and Rail Traffic Act, 1933.

40. Any body desiring to make a representation to the Tribunal under Section 39 of the Road and Rail Traffic Act, 1933, as amended by Section 83 (5) of the Transport Act, 1947, shall do so by application in accordance with Rule 8.

Procedure under Section 22 of the Railways Act, 1921.

41. In any case where in pursuance of Section 22 of the Railways Act, 1921, the Minister of Transport places at the disposal of the Court information in his possession which he may think relevant to the matter before the Court, he shall submit the same in writing and the Registrar shall give notice to the parties who shall be entitled to inspect and take copies thereof and upon the hearing of the cause or matter the Court may require the attendance as a witness before them of such person as the Minister may appoint to represent him.

Procedure under Section 38 of the Railways Act, 1921.

42.—(1) Before the Commission, or any Railway Company, under Section 38, Sub-sections (3) or (4), of the Railways Act, 1921, increase or cancel any Exceptional Rate which has not been fixed by the Court, they shall give not less than 30 days' notice by advertisement or otherwise as may be directed by the Court or Registrar.

(2) Any such notice as aforesaid shall specify the rate proposed to be cancelled or increased, and in the case of an increase of rate, the extent of such proposed increase, and shall state that any trader interested in the rates proposed to be cancelled or increased may, before the expiration of the said 30 days, apply to the Court to prohibit the proposed cancellation or increase.

(3) If the Commission or any Railway Company propose to increase or cancel an Exceptional Rate which has been fixed by the Court, they shall apply for the sanction of the Court by an application in accordance with Rules 8 and 12.

(4) Any application under Section 38, Sub-section (6), of the said Act, by a trader or representative body of traders to cancel or vary an Exceptional Rate shall name the Commission or the Railway Com-

pany concerned as a Respondent, but the Applicant shall also apply by summons to the Registrar for directions as to publication and service of such application or the adding of Respondents thereto.

(5) Nothing herein shall affect the powers of the Commission to increase any Exceptional Rate under the provisions of Section 83 (2) of the Transport Act, 1947.

Procedure under Section 83 of the Transport Act, 1947.

43. Any trader aggrieved by the raising of any Exceptional Rate by the Commission under Section 83 (2) of the Transport Act, 1947, may lodge an application under Rule 8 for an order restoring the lower rate.

Procedure under the London Passenger Transport Act, 1933.

44. In the case of any application under the London Passenger Transport Act, 1933(a), the following rules shall apply.

(1) Any application by a local authority under the provisions of Sections 29 (1), 30 (1), 34 (1) or 35 (1) of the said Act, shall be brought in accordance with Rule 8.

(2) Any application by the Commission, as successor to the London Passenger Transport Board under Section 29 (1) or Section 30 (3) of the said Act, or by the Commission, as successor to any Amalgamated Railway Company under Section 34 (1) or Section 35 (3) of the said Act, shall be made in accordance with Rule 12, and there shall be lodged with the application, a statement certified by the solicitor, or other responsible officer of the applicant, setting forth the name of each local authority (as defined in Section 107 (3) of the said Act), whose area is or may be affected by the application.

(3) Where in accordance with the provisions of Sections 29 (3), 30 (3), 34 (3) or 35 (3) of the said Act, a certificate of the Minister is required, such certificate shall be lodged with the application.

Charges Schemes.

45.—(1) The submission of a Charges Scheme for confirmation by the Court shall be by application in accordance with Rules 8 and 12.

(2) If the Court give notice to the Commission that they have been required by the Minister to review the operation of a Charges Scheme, the Commission shall lodge an application in accordance with Rules 8 and 12 for such alterations as they consider necessary or for the confirmation of the Scheme unaltered.

Appeals to the Court.

46.—(1) Where an appeal lies to the Court, not being an appeal from any order or decision of the Registrar, it shall be by notice in accordance with Form 7 of the First Schedule hereto lodged with the Registrar within 28 days of the Order or decision complained of.

(2) An appeal to the Court from any Order or decision of the Registrar shall be by notice in accordance with Form 8 in the First Schedule hereto lodged with the Registrar within 4 days of the Order or decision complained of, except that where all parties are present at the making of the Order or decision the appeal may be by way of indorsement by the Registrar on the summons at the hearing thereof.

(3) Every notice of appeal shall state the grounds of appeal and the relief or remedy claimed, and shall be signed by the applicant or his solicitor and served upon all parties within the aforesaid times.

(a) 23 & 24 Geo. 5. c. 14.

(4) The Registrar shall fix the date and place of hearing and notify the parties to the appeal.

Correction of Errors.

47.—(1) Clerical mistakes in any Orders of the Court or errors arising therein from any accidental slip or omission may at any time be corrected by consent of the parties or by the Court on motion.

(2) The Court may also on motion review, rescind, or vary any decision or Order of the Court on any of the following grounds, that is to say:—

(*a*) Absence of material witness or introduction of adverse evidence which could not have been anticipated.

(*b*) Submission of further evidence which was not available at the hearing of the cause.

(*c*) Some substantial wrong or miscarriage of justice.

(*d*) Mistake or inadvertence.

Any such motion shall be made in the case of an interlocutory order within fourteen days after it was made, and in the case of any other order or decision within 28 days after the same was published or communicated to the parties.

Review of Final Orders.

48. The Court may review any final Order or decision of the Court on the ground that the circumstances have changed. Any person interested may apply for such review ex parte not sooner than one year after the making of such order or decision, and Rule 12 shall apply.

Constitution of the Court.

49.—(1) Any interlocutory motion or appeal from the Registrar may be determined by the President alone or by any two permanent members of the Tribunal.

Subject to the powers of the President under the Tenth Schedule to the Transport Act, 1947, every substantive application and every appeal not concerned with procedure shall be heard and determined by the three permanent members and any additional members who may be appointed for any particular application or class of applications.

(2) If during the hearing of any application or appeal a change shall have taken place in the constitution of the Court, the Court as newly constituted may rehear the whole or any part of the evidence already heard, or may proceed without any such rehearing, or may make thereon such other Order as may be just and convenient for determining the matters in issue.

Hearing.

50.—(1) The hearing of every application other than interlocutory applications, and of the arguments upon a point of law set down under Rule 28 shall take place in open Court.

(2) The Court or Registrar may order any two or more applications or appeals to be heard together.

Right of Audience.

51.—(1) Any person entitled to be heard may appear and be heard in person, or by Counsel or Solicitor.

(2) A representative body of Traders shall not be entitled to be heard under a certificate of the Board of Trade unless they have already intervened in the cause by Application, Answer or Notice, at the same time lodging the certificate with the Registrar.

(3) (*a*) Any person may appoint an employee to act as his representative in any proceedings, and if the appointment is duly made in accordance with these Rules, such representative shall be entitled to appear and be heard on all occasions when his principal might so appear, and to do in connection with the proceedings covered by his appointment any act or thing, or give any consent, or receive any notice, or otherwise represent the party appointing him as fully as the party himself could do.

(*b*) Any such appointment shall be signed by the party making it and may be in respect of a particular application or of particular proceedings or general for a period not exceeding one year, provided the person appointed shall so long remain in the employment of the party appointing him.

(*c*) Every appointment and every revocation, renewal, extension or variation thereof shall be in duplicate, whereof one part shall be lodged with the Registrar before the representative shall act thereon, and the other part shall be retained by the person appointed as representative.

(4) The Court may permit any person whom they shall deem likely to be able to assist them to address the Court.

(5) Where the Minister of Transport shall notify the Court that he intends, in pursuance of Section 22 (2) of the Railways Act, 1921, to appear upon any proceedings before the Court, he shall not less than seven days before the commencement of the hearing lodge with the Registrar a notice of his intention to appear.

Attendance of Witnesses.

52.—(1) The attendance of witnesses before the Court, with or without documents, may be enforced by notice issued by the Registrar. Such notice shall be according to Form 9 in the First Schedule hereto and shall be sealed by the Registrar with the seal of the Court and may be served in any part of Great Britain.

(2) Any party and any person who has lodged a representation under Rule 16 may apply to the Registrar to issue a notice requiring any person to attend as a witness with or without documents, and the Registrar on such application may make such Order as he thinks fit.

Evidence oral and by Affidavit.

53.—(1) The evidence at the hearing of an application may be taken either by affidavit or viva voce, or partly one and partly the other. Provided that if any party intends to rely on any evidence by affidavit they or he shall, seven days at least before the hearing, deliver or send by post to every other party a copy of any affidavit intended to be used, or in default shall not be allowed to use the same except by leave of the Court.

(2) Any party may, within four days after receipt of a copy of any affidavit intended to be so used, give to the other party a notice requiring the deponent to be produced at the hearing of the application for cross-examination, and unless the deponent is so produced, his affidavit shall not be used except by leave of the Court.

(3) The Court may in its discretion direct evidence at the hearing of an application to be taken either by affidavit or viva voce, or that any particular facts shall be proved by affidavit, and may give such directions in regard thereto as it thinks fit.

Contents and filing of Affidavits.

54.—(1) Every affidavit shall state the deponent's means of knowledge.

(2) Affidavits to be used in any proceedings before the Court shall be lodged in the office of the Registrar, seven days before the hearing, and in default thereof shall not be used without leave of the Court.

Swearing of Affidavits.

55.—(1) Any affidavit used in any proceeding before the Court may be sworn as follows:—

In England and Wales before the Registrar, or the Officer appointed by the Court to administer oaths in proceedings before it, or before a person authorised to administer oaths in any of the Superior Courts, or before a Commissioner empowered to take or receive affidavits.

In Scotland, in addition to the above-mentioned persons, before any Sheriff or Sheriff-substitute.

In any place in the British Dominions out of Great Britain, before any Court, Judge, or any person authorised to administer oaths there in any Court.

In any place out of the British Dominions, before a British Minister, Consul, or Vice-Consul.

(2) The Court shall take judicial notice of the seal or signature, as the case may be, of any such Court, Judge, Minister, Consul, or Vice Consul, attached, appended, or subscribed to any such affidavit.

Judgment of Court.

56. A decision of the Court may be given verbally or in writing. A verbal decision shall take effect by being pronounced in open Court. A written decision shall be signed by the members and shall take effect either by being read in open Court or by copies thereof being sent by the Registrar to all the parties to the cause. The Court may make such order as they think fit as to the publication by either party of any decision.

Orders by consent.

57. Orders by consent may be drawn up, and, if approved of by the Court, may be sealed with the seal of the Court.

Signing of Documents.

58. Where under these Rules it is directed that any document shall be signed by any party or person, such document may in the case of a firm be signed by any person having authority to sign the firm's name, and in the case of a body, association or authority may be signed by the chairman, president, managing director, general manager or secretary of the body, association or authority, or by any person authorised under the seal of a body corporate to sign on its behalf, or by any person authorised to represent a party under Rule 51 (3).

Costs.

59. No order shall be made as to the costs of any proceeding before the Court except in the case of a dispute between two Railway Companies, or a dispute between the Commission and a Railway Company, or unless the Court are of opinion that any application, appeal, defence, claim, complaint, representation or objection is frivolous and vexatious in which cases the Court may order such sum as they consider reasonable to be paid by the person answerable therefor to any other person.

Appeals on certain questions to Superior Court.

60.—(1) Save that there is no appeal from any decision of the Court in the exercise of its jurisdiction under the Local Government Act, 1929(a), or the London Passenger Transport Act, 1933, the right of

(a) 19 & 20 Geo. 5. c. 17.

appeal shall be as provided by Section 17 of the Railway and Canal Traffic Act, 1888(a), Section 26 of the Railways Act, 1921, and paragraph 5 of the Tenth Schedule to the Transport Act, 1947.

(2) In case of an appeal against a decision of the Court where the hearing of the cause has taken place in Scotland, or if the subject matter of the decision appealed from is local to Scotland, the term Superior Court of Appeal shall be read as meaning the Court of Session. In all other cases the term Superior Court of Appeal means His Majesty's Court of Appeal in England.

Provided always that on the application of any party to a proceeding the Court may direct that the appeal from the decision of the Court shall lie to such Superior Court of Appeal as it may determine, having regard to the place of residence or business of the parties or subject matter of the decision.

Computation of Time.

61.—(1) In all cases in which any particular number of days, not expressed to be clear days, is prescribed by these Rules, the same shall be reckoned exclusively of the first day and inclusively of the last day, unless the last day shall happen to fall on a Sunday, Christmas Day, New Year's Day or Good Friday, or a Bank Holiday, or a day appointed for a public fast or thanksgiving, in which case the time shall be reckoned exclusively of that day also.

(2) When the time for lodging any application, appeal, summons, notice or document with the Registrar expires during the time when the Registrar's office is closed, the lodgment may be effected on the day on which the office is next open.

Enlargement or Abridgment of time.

62.—(1) The Court or the Registrar may enlarge or abridge the time appointed by these Rules, or fixed by any Order, for doing any act or taking any proceedings upon such terms, if any, as the justice of the case may require, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

(2) The time for delivery, amending, or lodging any answer, reply, or other pleading or document may be enlarged by consent of the parties in writing, without application to the Court. Such written consent shall be left with the Registrar at the time of lodging the answer, reply or other pleading or document.

Service of Documents.

63. The Registrar may direct that any Application, Answer, Summons, Notice or other document required to be served, shall be served by registered post addressed to the person on whom it is to be served at his address for service, residence, or place of business, or otherwise as the Registrar may order.

Sittings of Court.

64. The sittings of the Court shall be four in every year, viz., the Michaelmas Sittings, the Hilary Sittings, the Easter Sittings, and the Trinity Sittings. The Michaelmas Sittings shall commence on the 1st October and terminate on the 21st December; the Hilary Sittings shall commence on the 11th January and terminate on the Wednesday before Easter; the Easter Sittings shall commence on the Tuesday after Easter Week and terminate on the Friday before Whit Sunday; and the Trinity Sittings shall commence on the Tuesday after Whitsun

(a) 51 & 52 Vict. c. 25.

Week and terminate on the 31st July, but nothing herein contained shall prevent the Court, if they see fit, hearing and determining any application, matter or thing during the Vacation, and any application or other proceeding prior to hearing may be made to the Court at any time when the Registrar's Office is open.

Registrar's Offices, when open.

65.—(1) Save as hereinafter mentioned, the Registrar's Offices shall be open daily on week-days from 10 o'clock in the forenoon till 4 o'clock in the afternoon, except upon Saturday, when they shall be open from 10 o'clock in the forenoon till 12 noon, and except during the month of September, when the offices shall be open from 10 o'clock in the forenoon till 12 noon on each day from Monday to Friday and shall be closed on Saturday.

(2) The offices shall be closed on the following days, namely, New Year's Day, Good Friday, Easter Eve, Monday and Tuesday in Easter Week, Whit Monday and Whit Tuesday, Christmas Day and the three following days, any day appointed by law to be a Bank Holiday, the day appointed to be kept as the King's Birthday, and throughout the month of August, except as provided in Rule 38.

Advisory Jurisdiction.

66.—(1) Where the Minister is required to consult the permanent members of the Tribunal as a Consultative Committee under the provisions of Section 82 of the Transport Act, 1947, a written request shall be submitted with a statement of the matter on which their advice is sought but nothing herein shall prevent any informal discussions before or after the submission of any such request.

(2) On receipt of such request the Committee will determine its procedure and advise the Minister thereon.

Table of Fees

Fees.

67. The fees, a table whereof is in the Second Schedule hereto, may be demanded and taken in respect of the proceedings before the Court.

Dated this 26th day of April, 1949.

Bruce Thomas.
Herbert E. Parkes.
T. E. Argile.

Approved:—

Jowitt. C.
T. M. Cooper.
Alfred Barnes.

We consent to the scale of fees prescribed by Rule 67 of, and the Second Schedule to, these Rules.

R. J. Taylor.
J. W. Snow.
Two of the Lords Commissioners of His Majesty's Treasury.
17*th May*, 1949.

FIRST SCHEDULE

The forms contained in this Schedule may be used in the cases to which they are applicable, with such alterations as the circumstances of the case may render necessary, but any variance therefrom, not being in matter of substance, shall not affect their validity or regularity.

FORM 1

Notice of Motion

In the Court of the Transport Tribunal. 19 . No.

A.B. Applicant
[C.D. E.F. Respondents]

Notice of Motion

Take Notice that the Court will be moved by [Counsel on behalf of] A.B. [C.D. E.F.] on the day of 19 , at o'clock in the noon at [ ] for an order that.....
.....
.....

[To C.D. E.F. or A.B. and their Solicitor].

To the Registrar.

Lodged the day of 19 .

Signed .....
[Qualification]
Address for Service .....

L.S.

FORM 2

Summons

In the Court of the Transport Tribunal. 19 . No.

A.B. Applicant
[C.D. E.F. Respondents]

Let all parties concerned attend the Registrar of the Court on the day of 19 , at o'clock in the noon at [ ] on the hearing of an Application by the above named Applicant [or by C.D. one of the above named Respondents] for an Order that:—

1.....
2.....
3.....

[To C.D. E.F. *or* A.B. and their Solicitor]

Lodged the day of 19 .

Signed .....
[Qualification]
Address for Service.....

L.S.

FORM 3

Application

In the Court of the Transport Tribunal. 19 . No.

A.B. Applicant
[C.D. E.F. Respondents]

Application

1. The Applicant is [a trader carrying on business at.....] *or* [an Association of Traders, having its head office at.....and representing.....] *or* [The Applicants whose head office is at .....have obtained from the Board of Trade a certificate lodged

herewith that.....] *or* [The Applicant is the Transport Commission whose head office is at.....
.....]

2. [The Respondents are.....]

3.
4.
5. } Set out the material facts intended to be proved in support of the Application.

The Applicants claim an Order that.....

[To C.D. E.F. *or* A.B. and their Solicitor]

Lodged the day of 19 .

Signed .....
[Qualification]
Address for Service.....

L.S.

FORM 4

Indorsement on Application

To the above named Respondent E.F.

You are hereby commanded by the Court of the Transport Tribunal to lodge your answer to this Application within 15 days of the Service thereof upon you, and take notice that in default of such answer being lodged within such time or any extension thereof duly granted, you will not be heard at the trial except by leave of the Court.

L.S.

FORM 5

Objection or other Representation

In the Court of the Transport Tribunal. 19 . No.

A.B. Applicant
[C.D. E.F. Respondents]

Notice by G.H.

Take notice that G.H. desires to attend and be heard on this Application which he will oppose [support] on the following grounds:—

1.....
2.....
3.....

[And further take notice that G.H. will suggest the following variations to the Order applied for.

1.....
2.....
3.....]

And further take notice that the interest of G.H. is.....

(*or in the case of a representative body*)

[that G.H. represent.....whose interest is.....]
[and that they have lodged a certificate from the Board of Trade that.....
.....]

Lodged the day of 19 .

To A.B. [C.D. E.F.] and his Solicitor.

To the Registrar.

Signed .....
[Qualification]
Address for Service.....

L.S.

FORM 6

Answer

In the Court of the Transport Tribunal. 19 . No.

A.B. Applicant

C.D. [E.F.] Respondents

Answer of the Respondent C.D.

This Respondent says:—

1. Indicate how much, if any, of the claim is conceded.
2. Deny those facts which are not admitted.
3. Indicate any facts which are admitted. Set out any further facts which are intended to be proved to defeat the claim. If Respondents are a representative body show whom they represent and how they will be affected.

Signed .....
[Qualification]

Address for Service.....

Lodged the day of 19 .

L.S.

FORM 7

Notice of Appeal

In the Court of the Transport Tribunal 19 No.

Appellate Jurisdiction.

A.B., (Applicant below) Appellant

[C.D. E.F. (Respondents below) Respondents]

Notice of Appeal

Take notice that the Appellant appeals against the Order [decision] given by [the Licensing Authority for .....] on the day of 19 , to [describe the order e.g. refusing the Applicant a licence for .....]

The grounds of the Appeal are:—

1. .....
2. .....
3. .....

The Appellant will ask for an Order that the said Order of..... be set aside, [or be varied so that .....]

Signed .....
[Qualification]

Address for Service .....

To A.B. [or C.D. E.F.]

To the Registrar.

Lodged this day of 19 .

L.S.

FORM 8

Notice of Appeal from the Registrar

A.B. Applicant

[C.D. E.F. Respondents]

Notice of Appeal from the Registrar

Take Notice that the Applicant [Respondent C.D.] appeals against the Order given by the Registrar on the day of 19 . [*describe the order* e.g. refusing leave to administer interrogatories].

The grounds of the Appeal are:—

Signed .....

[Qualification]

Address for Service .....

To A.B. [or C.D. E.F.]

To the Registrar.

Lodged this day of 19 .

L.S.

FORM 9

Notice to compel attendance of Witnesses

In the Court of the Transport Tribunal

Transport Act, 1947.

In the matter of the Application of A.B., Applicant

against

C.D. E.F. Respondents

To L.M. of
N.O.
P.Q.

Take notice that you are required to attend before the Court of the Transport Tribunal at on at the hour of in the noon and so on from day to day until the above Application is tried, to give evidence when called.

[And you are also to bring with you and produce at the aforesaid time and place the following documents .....]

L.S.

SECOND SCHEDULE

Rule 67

SCHEDULE OF FEES

	£	s.	d.
Receiving and lodging every application, or answer thereto, or every notice of Appeal not being an Appeal from the Registrar	1	0	0
Receiving and lodging every reply, affidavit, or other proceeding (NOTE.—No extra charge is to be made for documents that may accompany any application, answer, reply or affidavit)	0	2	6
On taking an affidavit or a declaration or an affirmation, for each person making the same	0	2	0
And in addition thereto for each exhibit therein referred to and required to be marked, or for each schedule required to be marked	0	1	4
Every summons upon interlocutory proceedings	0	5	0
Every notice of motion before the Court or every Notice of Appeal from the Registrar	0	5	0
Every order made on a summons or motion	0	2	6
For every appointment for hearing of a cause	0	2	6
Every hearing not in the nature of an interlocutory proceeding, or otherwise provided for, each day	2	0	0
Every decision on a cause	1	0	0
On drawing up and issuing an Order under seal	1	0	0
Office copies of documents (per folio)	0	0	8
On any Order of the Registrar fixing the amount of any costs ordered by the Court, two and a half per cent. on the amount allowed.			

NOTE.—The hearing fee for the first day is to be paid by the Applicant, the hearing fee for each subsequent day is to be paid by the party the hearing of whose evidence or argument occupies the day or the greater part of the day, as the case may be, unless the Court otherwise directs.

All fees shall be paid by adhesive stamps which shall be sold only at the offices of the Tribunal.

The fees on appeal are governed by the rules of the Court to which the appeal lies.

No fees are payable by the Minister of Transport in respect of Proceedings before the Transport Tribunal.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules lay down the procedure to be followed before the Transport Tribunal, as the Railway Rates Tribunal has been renamed. In its main lines the procedure is the same as that prescribed by the Railway Rates Tribunal Rules of 1922, now revoked. The Additional Rules of 1928, 1929, 1934 (1) and 1934 (2) are revoked. They dealt respectively with the Road Transport charges of the Railway Executive, the Railway Freight Rebates Scheme, Agreed Charges, and services rendered by the London Transport Executive and the charges therefor. Their provisions are substantially re-embodied in these Rules.

NAVAL RESERVES

COLONIAL NAVAL DEFENCE

The Malayan Naval Force Order, 1949

1949 No. 142

Made - - - - *28th January,* 1949

At the Court at Sandringham, the 28th day of January, 1949

Present,

The King's Most Excellent Majesty in Council

Whereas by the Colonial Naval Defence Act, 1931(a), (hereinafter referred to as the Act) it is enacted that the legislature of any colony may, with the approval of His Majesty in Council, make provision for maintaining and using vessels of war; and that where the legislature of any colony has made provision for raising a force for the naval defence of the colony within its territorial waters, that legislature may, with the approval of His Majesty in Council, further make such provision regarding the discipline and service of officers and men of that force as is set out in the Act;

(a) 21 & 22 Geo. 5. c. 9.