STATUTORY INSTRUMENTS

# 1986 No. 1547

# TRANSPORT

## The Transport Tribunal Rules 1986

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| *Made - - - -* | *4th September* 1986 |
| *Laid before Parliament* | *10th September* 1986 |
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The Secretary of State for Transport, in exercise of the powers conferred by paragraph 11(1) of Schedule 4 to the Transport Act 1985(**a**), and of all other enabling powers, and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971(**b**), hereby makes the following Rules:—

## PART I

## PRELIMINARY

*Citation and commencement*

**1.** These Rules may be cited as the Transport Tribunal Rules 1986, and shall come into operation on 1st October 1986.

*Interpretation*

**2.**— (1) In these Rules, unless otherwise provided—

"the 1968 Act" means the Transport Act 1968(**c**);

"the 1981 Act" means the Public Passenger Vehicles Act 1981(**d**);

"the 1985 Act" means the Transport Act 1985;

"the appellant" means any person lodging an appeal to which Part III of these Rules applies;

"applicant", except in Part III of these Rules, means any person making an application under Part II or Part IV of these Rules;

"appropriate financial standing" shall be construed—

*(a)* in relation to any person who is an applicant for or the holder of a goods vehicle operator's licence, in accordance with paragraph 2 of Schedule 6 to the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984(**e**); or

*(b)* in relation to a person who is an applicant for

or the holder of a PSV operator's licence, in accordance with paragraph 2 of Schedule 3 to the 1981 Act;

"authority" means, as the circumstances require, a licensing authority within the meaning of Part V of the 1968 Act or a traffic commissioner within the meaning of the 1981 Act;

"decision", except in relation to the Tribunal, means any decision, determination, direction or order of an authority;

"deponent" means the person swearing an affidavit;

"goods vehicle operator's licence" means a licence granted under Part V of the 1968 Act;

"judicial member" has the same meaning as in Schedule 4 to the 1985 Act;

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(**a**) 1985 c.67.
(**b**) 1971 c.62.
(**c**) 1968 c.73.
(**d**) 1981 c.14.
(**e**) S.I. 1984/176, as amended by S.I. 1986/666.

"notice of appeal" means a notice given in accordance with rule 10;

"operator's licence" means, as the circumstances require, a licence granted under Part V of the 1968 Act or a licence granted under Part II of the 1981 Act;

"PSV operator's licence" means a licence granted under Part II of the 1981 Act;

"party", in Part III of these Rules, shall be construed in accordance with rule 15;

"preliminary hearing" means a hearing pursuant to rule 19;

"president" means the person appointed as president in accordance with the provisions of Schedule 4 to the 1985 Act;

"proper officer", in relation to a rule, means an officer or servant of the Tribunal designated by the president to perform the duties of a proper officer under the rule;

"relevant publication" means, as the circumstances require—

*(a)* the statement called "Applications and Decisions" issued by an authority pursuant to regulation 24 of the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984; or

*(b)* the statement known as "Notices and Proceedings" published by an authority pursuant to regulation 7 of the Public Service Vehicles (Road Service Licences and Express Services) Regulations 1980(**a**),

recording the decision giving rise to an appeal to which Part III of these Rules applies;

"representor", in Part III of these Rules, means a person who duly made representations under section 69B or 69D of the 1968 Act against the application for, or for the variation of, the operator's licence in question;

"Superior Court" means, in England and Wales, the Supreme Court of Judicature, and, in Scotland, the Court of Session;

"the Tribunal" means the Transport Tribunal as reconstituted in accordance with the 1985 Act.

(2) Any reference in these Rules to a numbered rule is a reference to the rule bearing that number in the Rules, and any reference to a numbered paragraph is a reference to the paragraph bearing that number in the rule in which the reference appears.

## PART II

### APPLICATIONS FOR STAYS OF REVOCATION OR SUSPENSION

*Application of Part II*

**3.** Rules 4 to 8 apply to applications to the Tribunal under section 69(10) of the 1968 Act or section 50(8) of the 1981 Act (**b**).

(**a**) S.I. 1980/1354, as amended by S.I. 1985/1907.
(**b**) Section 50 was substituted by the Transport Act 1985 (c.67), section 31.

*Method of applying*

**4.**— (1) Applications to which this rule applies shall be made by notice in writing served on the Tribunal.

(2) At the same time as he serves notice on the Tribunal, the applicant shall supply a copy of the notice to the authority.

*Contents of notice*

**5.** The applicant's notice shall state—

*(a)* the name and address of the applicant;

*(b)* the name and address of the authority;

*(c)* brief particulars of the decision giving rise to the application; and

*(d)* the reasons for the application.

*Authority's statement*

**6.**— (1) Within 7 days of receipt of the applicant's notice, the authority shall supply to the Tribunal a written statement of his reasons for the decision giving rise to the application.

(2) The authority shall send to the applicant a copy of any such written statement.

*Appearance before the Tribunal*

**7.** The Tribunal may, if they think fit, give the applicant an opportunity of being heard.

*Decision of the Tribunal*

**8.**— (1) The decision of the Tribunal shall be recorded in a document signed by the president or another judicial member and dated when so signed.

(2) Such document shall contain a summary of the reasons for the decision of the Tribunal.

(3) A copy of the document recording the decision of the Tribunal shall be sent to the applicant and the authority.

## PART III

## ROAD TRANSPORT APPEALS

*Application of Part III*

**9.** Rules 10 to 31 apply to appeals to the Tribunal under—

*(a)* section 70(1) of the 1968 Act(**a**);

*(b)* section 50 of the 1981 Act(**b**); or

*(c)* section 111 of the 1985 Act.

*Method of appealing*

**10.**— (1) Appeals to which this rule applies shall be made by notice in writing served on the Tribunal.

(2) At the same time as he serves notice on the Tribunal, the appellant shall supply a copy of the notice to—

*(a)* the authority; and

*(b)* in the case of an appeal by an applicant for, or for the variation of, an operator's licence, to every person who duly made an objection to the application; or

*(c)* in the case of an appeal by a person who duly made an objection to an application for, or (in the case of a goods vehicle operator's licence) for the variation of, an operator's licence, to the applicant and to every person (other than the appellant) who duly made an objection to the application.

(3) Every notice served on the Tribunal in accordance with this rule shall be marked by a proper officer with the date upon which it was received.

(4) A proper officer shall send to the Secretary of State a copy of every notice served on the Tribunal in accordance with this rule.

*Contents of notice of appeal*

**11.**— (1) The notice of appeal shall state—

*(a)* the name and address of the appellant;

*(b)* the name and address of the authority;

*(c)* full particulars of the decision against which the appeal is brought;

*(d)* the reasons for the appeal;

*(e)* where appropriate, the reasons for a request to the Tribunal to accept a notice of appeal after the expiry of the period mentioned in paragraph (1) or (2) (as the case may be) of rule 12; and

*(f)* the names and addresses of the persons (other than the authority) to whom copies of the notice are being sent.

(2) The notice of appeal may be amended at any time as the Tribunal may think fit and upon such terms as they may think just.

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(**a**) Section 70(1) was extended by the Goods Vehicles (Operators' Licences, Qualifications and Fees) Regulations 1984 (S.I. 1984/176), regulation 9(3).

(**b**) Section 50 was substituted by the Transport Act 1985 (c.67), section 31.

*Time limit for appealing*

**12.**— (1) Every notice of appeal shall be served on the Tribunal not later than 28 days after the date of the relevant publication.

(2) In any case where there is no relevant publication within 21 days of the date of notice or notification to the appellant of the decision giving rise to the appeal, the notice of appeal shall be served on the Tribunal not later than 49 days after that date.

(3) The Tribunal may accept a notice of appeal served after the expiry of the period mentioned in paragraph (1) or (2) if, by reason of special circumstances, they are of the opinion that it is just and right to do so.

*Supply of documents etc. by the authority*

**13.**— (1) Upon receipt of a copy of a notice of appeal, the authority shall send to the Tribunal six copies of the following documents—

*(a)* all documents produced to the authority in connection with the decision appealed against;

*(b)* if any inquiry was held, the verbatim record of the inquiry or, if no such record was kept, the authority's note of the inquiry; and

*(c)* a statement of the reasons of the authority for the decision appealed against.

(2) In the case of an appeal under section 70(1) of the 1968 Act, at the same time as the authority sends to the Tribunal copies of the documents mentioned in paragraph (1), the authority shall supply the Tribunal with a list of the names and addresses of representors.

(3) A proper officer shall send to each party who requests him to do so a copy of such of the documents received from the authority in accordance with paragraph (1) as the party may specify.

*Notice of appeal to representors*

**14.**— (1) In the case of an appeal under section 70(1) of the 1968 Act, a proper officer shall send a notice in accordance with paragraph (2) to each representor.

(2) A notice sent pursuant to paragraph (1) shall state—

*(a)* that an appeal under section 70(1) of the 1968 Act has been made to the Tribunal; and

*(b)* the name of the appellant,

and shall contain—

*(c)* a summary of the reasons for the appeal; and

*(d)* a statement that the representor may, within 14 days of the date of the notice, apply in writing to the Tribunal for leave to become a party to the appeal.

*Parties to an appeal*

**15.** The parties to an appeal are—

*(a)* the appellant;

*(b)* every person to whom the appellant is required by rule 10(2)*(b)* or *(c)* to supply a copy of his notice of appeal;

*(c)* every representor who is given leave by the Tribunal to become a party to the appeal; and

*(d)* every person who by order of the Tribunal under rule 16 is added as a party to the appeal.

*Joinder of further parties*

**16.** The Tribunal may at any stage of an appeal order any person (other than the authority) to be added as a party to the appeal, and may give such directions as to—

*(a)* the service of the notice of appeal and other documents on that person; and

*(b)* the postponement or adjournment of the appeal,

as the Tribunal may think fit, and upon such terms as they think just.

*Written replies and statements by parties*

**17.**— (1) Any person to whom the appellant is required by rule 10(2)*(b)* or *(c)* to supply a copy of his notice of appeal, and any other party to the appeal, may furnish to the Tribunal a written reply to the reasons for the appeal.

(2) Any person furnishing such a reply to the Tribunal shall also send a copy of it to every other party.

(3) Subject to paragraph (4), the Tribunal may not accept a reply furnished pursuant to this rule after the expiry of 28 days after the date on which they received the notice of appeal, unless by reason of special circumstances, they are of opinion that it is just and right to do so.

(4) The Tribunal may not accept a reply furnished pursuant to this rule by a party who is—

*(a)* a representor; or

*(b)* a person added as a party by order of the Tribunal under rule 16,

after the expiry of 14 days after the date on which they gave leave for the representor to become a party or (as the case may be) made the order which added the person as a party, unless (in either case) by reason of special circumstances they are of opinion that it is just and right to do so.

(5) The Tribunal may by notice in writing require any party to supply such written replies or other statements as they may think necessary, and paragraph (2) shall apply to statements submitted pursuant to the Tribunal's notice.

*Discovery of documents*

**18.**— (1) Without prejudice to the powers conferred on them by paragraph 8(2) of Schedule 4 to the 1985 Act, and subject to paragraph (2), the Tribunal shall by notice in writing require the authority or any party to an appeal to deliver to the Tribunal within such time as they may allow any document which the Tribunal may require and which it is in the power of the authority or the party to deliver.

(2) Paragraph (1) does not apply in relation to any document which the authority or party could not be compelled to produce on the trial of an action in that part of Great Britain where the appeal is to be determined.

(3) The Tribunal shall supply a copy of any documents, or communicate any information, obtained under this rule to all the parties (other than the party supplying the document or communicating the information), and it shall be a condition of such supply or communication that the document or information shall be used only for the purposes of the appeal.

*Preliminary points of law*

**19.**— (1) The Tribunal may order any point of law which appears to be in issue in the appeal to be determined at a preliminary hearing.

(2) If, in the opinion of the Tribunal, the determination of that point substantially disposes of the whole appeal, the Tribunal may treat the preliminary hearing as the hearing of the appeal and may make such order by way of disposing of the appeal as the Tribunal think fit.

(3) If the parties so agree in writing, the Tribunal may determine the point without a hearing but, in any such case and without prejudice to rule 29(3), the Tribunal may not at the same time dispose of the appeal.

*Hearings*

**20.**— (1) As soon as practicable after notice of appeal has been given the Tribunal shall appoint a date, time and place for a hearing.

(2) A proper officer shall send to—

*(a)* the appellant;

*(b)* the authority;

*(c)* every person to whom the appellant is required by rule 10(2)(b) or (c) to supply a copy of his notice of appeal;

*(d)* every representor who is given leave to become a party;

*(e)* every person who by order of the Tribunal under rule 16 is added as a party; and

*(f)* the Secretary of State,

a notice informing him of the appointed date, time and place, and, unless all the parties otherwise agree, the time shall not be earlier than 14 days after the notice was sent.

(3) Every notice sent pursuant to paragraph (2) shall contain a statement of the effect of rule 24.

*Public notice of hearings*

**21.** There shall be exhibited for public inspection in the principal office of the Tribunal a list of all appeals for which a date, time and place of hearing have been appointed pursuant to rule 20.

*Hearings in public*

**22.**— (1) Subject to the following paragraphs of this rule, all hearings by the Tribunal shall be in public unless it appears to them that there are exceptional reasons which make it desirable that a hearing, or any part of a hearing, should be in private.

(2) Paragraph (1) does not apply to preliminary hearings held pursuant to rule 19.

(3) Where any question relating to the appropriate financial standing of any person is to be considered during a hearing, the Tribunal may exclude such members of the public as they think fit from the part of the hearing during which that question is considered.

(4) Without prejudice to any other powers which they may have, the Tribunal may also exclude from the whole or any part of a hearing any person whose conduct has disrupted or is likely, in the opinion of the Tribunal, to disrupt the progress of the hearing.

(5) Notwithstanding the preceding paragraphs of this rule, a member of the Council on Tribunals or of the Scottish Committee of that Council may be present in his capacity as such at any hearing by the Tribunal notwithstanding that the hearing, or part of the hearing, is not in public, and such member may remain present during the deliberations of the Tribunal but shall take no part in those deliberations.

*Appearance at hearings*

**23.**— (1) All the parties to an appeal may appear at the hearing in connection with that appeal (including preliminary hearings).

(2) The Tribunal may permit any person not being a party (or a representative of a party) whom they shall deem likely to be able to assist to address them on such point or points (whether of fact or law) as the Tribunal shall specify.

(3) Where the Secretary of State intends, by virtue of paragraph 12(2) of Schedule 4 to the 1985 Act, to appear and be heard at any hearing, he shall not less than 7 days before the commencement of the hearing give or send to the Tribunal written notice of his intention to appear and be heard.

(4) A proper officer shall send a copy of any notice received from the Secretary of State pursuant to paragraph (3) to the authority and each party.

*Failure to attend*

**24.** If any party fails to appear at a hearing under this Part of these Regulations—

*(a)* if it is a preliminary hearing, the Tribunal may proceed with the hearing and determine the point at issue but the Tribunal may not treat the hearing as the hearing of the appeal; or

*(b)* if it is any other hearing, the Tribunal may, if the party is the appellant, dismiss the appeal or, in any case, hear and determine the appeal in the party's absence.

*Limitation to grounds pleaded and evidence adduced*

**25.**— (1) At any preliminary hearing, the party whose application gave rise to the hearing may not put forward any grounds not stated in his application and the other parties may address the Tribunal or adduce evidence on those grounds only.

(2) At any other hearing, a party shall not be entitled to rely on any grounds not stated in his notice of appeal (if he is the appellant) or in his written reply or statement under rule 17 (if he is a party other than the appellant), nor to adduce any evidence not given to or before the authority prior to the authority reaching the decision appealed against.

(3) A party who has not put in a written reply or statement under rule 17 may only address the Tribunal.

(4) Notwithstanding the preceding provisions of this rule, the Tribunal may, if they think it just in all the circumstances and upon such terms as they may think fit, allow additional grounds to be put forward if they think those grounds to be material, and allow evidence not given to or before the authority to be adduced before them.

*Evidence by affidavit*

**26.**— (1) Subject to rule 25, if all the parties so agree, or if the Tribunal so order, evidence at any hearing (including a preliminary hearing) may be given by affidavit.

(2) The Tribunal may at any stage of an appeal by notice in writing require the personal attendance of any deponent for examination and cross-examination.

(3) Every affidavit shall specify—

*(a)* the means of the deponent's knowledge of any matter of fact stated in the affidavit; and

*(b)* the sources and grounds for any statement of information, belief or opinion in the affidavit.

(4) Every affidavit shall be given or sent to the Tribunal, and a copy thereof given or sent to every other party, not less than 7 days before the hearing at which the affidavit is to be used.

(5) If there is failure to comply with any of the requirements of paragraph (4) the affidavit shall not be used without the leave of the Tribunal.

*Attendance of witnesses*

**27.**— (1) The Tribunal may, if they think fit, on the application of any party make an order requiring any person (other than the authority) to attend any hearing (including a preliminary hearing) as a witness.

(2) Any such order shall be served on the witness by the person who applied for the order, and that person shall at the same time pay or tender to the witness a sum sufficient to cover his reasonable expenses for travelling to or from, and for his attendance at, the hearing.

(3) A witness shall not be obliged to attend in obedience to an order of the Tribunal unless that order has been served on him not less than 7 days before the day appointed for the hearing.

(4) The Tribunal may set aside any order under this rule on the application of the person to whom the order was addressed but shall not do so without first notifying the person who applied for the order and considering any representations made by that person.

*Conduct of proceedings at hearings*

**28.**— (1) Subject to the provisions of this Part of these Rules, the Tribunal shall at any hearing (including a preliminary hearing) give to each party an opportunity—

*(a)* to address the Tribunal and to amplify orally any written replies or statements furnished under rule 17; and

*(b)* to make representations on the subject matter of the appeal generally.

(2) The Tribunal may also, if they think fit, give to any party an opportunity to give evidence and to call witnesses.

(3) Where the Tribunal give a party the opportunity to give evidence and to call witnesses, they shall give each other party an opportunity to put questions to that party and (if any) his witnesses and (after the evidence has been taken) to make representations on the evidence.

(4) Subject to the provisions of these Rules, the Tribunal shall conduct the proceedings at any hearing (including a preliminary hearing) in such manner as they may determine and shall so far as appears appropriate to them seek to avoid formality in those proceedings.

*Further provisions as to hearings*

**29.**— (1) Where in the case of two or more appeals it appears to the Tribunal—

*(a)* that some common question of law or fact arises in both or all of them; or

*(b)* that for some other reason it is desirable that those appeals should be consolidated or heard together,

the Tribunal may order that the appeals be consolidated or heard together.

(2) The Tribunal shall not make any order under paragraph (1) without first giving all parties an opportunity to show cause why the order should not be made.

(3) The Tribunal may determine an appeal without a hearing if all the parties so agree in writing.

(4) The Tribunal may—

*(a)* postpone the date or time (or both) appointed for a hearing;

*(b)* adjourn a hearing to such date or time (or both) as they may determine; or

*(c)* alter the place appointed for any hearing,

and, if they do any of the above things, a proper officer shall notify the parties and the authority and the Secretary of State, of the revised arrangements.

*Decision of the Tribunal*

**30.**— (1) At the conclusion of any hearing (including a preliminary hearing) the Tribunal may announce their decision.

(2) In any event, whether there has been a hearing or not, the decision of the Tribunal shall be recorded in a document signed by the president or another judicial member and dated when so signed.

(3) Such document shall contain all findings of fact by the Tribunal and a statement of the reasons for their decision.

(4) If the Tribunal think fit, they may provide for their decision to have effect on such date as may be specified in the decision.

(5) A proper officer shall send a copy of the document recording the decision of the Tribunal to each party to the appeal and to the authority and the Secretary of State.

(6) Except where provision to the contrary is made, a decision of the Tribunal shall be treated as having been made on the date on which (as the case may be) it was announced or the copy of the document recording it was sent to the appellant.

## PART IV

## DISPUTES UNDER THE POST OFFICE ACT 1953

*Application*

**31.** Rules 32 to 37 apply to any dispute to be determined by the Tribunal under section 29 or 35 of the Post Office Act 1953(a).

*Commencement of proceedings*

**32.**— (1) Proceedings for the determination of any dispute to which this Part of these Rules applies may be commenced by serving on the Tribunal a notice stating—

*(a)* the name and address of the applicant;

*(b)* the subject matter of the dispute;

*(c)* the reasons for the application;

*(d)* the name and address of each other person who is a party to the dispute;

*(e)* an address for service of notices and other documents on the applicant.

(2) The applicant shall furnish the Tribunal with six copies of such notice and with further copies sufficient for sending to each of any other parties to the proceedings.

(3) A proper officer shall send to each party to the proceedings (other than the applicant) a copy of the notice, with—

*(a)* a request that any answer to the notice be lodged with the Tribunal within 14 days of the service of the notice on the party; and

*(b)* a statement that, in default of any answer, the party will not be heard at any hearing except by leave of the Tribunal.

*Answer*

**33.**— (1) Within 14 days from the sending to him of a notice in accordance with paragraph (3) of rule 32, the party in question shall send to the Tribunal an answer stating—

*(a)* how much, if any, of the applicant's claim is conceded;

*(b)* which facts are admitted, and which are denied; and

*(c)* setting out any further facts on which the party proposes to reply.

(2) Each party lodging an answer shall furnish the Tribunal with 7 copies of the answer.

(3) The Tribunal shall send a copy of the answer to the appellant and to each party other than the answering party.

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(a) 1953 c.36.

*Proceedings in default of answer*

**34.** If any party fails to send an answer in accordance with rule 33, he shall not be heard by the Tribunal except by leave and subject to any terms the Tribunal see fit to impose.

*Amendment of notice or answer*

**35.** The Tribunal may at any stage of the proceedings allow any notice or answer to be amended, or may order to be struck out of any notice or answer any matter which may tend to prejudice, embarrass or delay the fair hearing of the proceedings.

*Appearance before the Tribunal*

**36.** The Tribunal shall give the applicant and the other party or parties to the dispute an opportunity of being heard.

*Decision of the Tribunal*

**37.**— (1) The decision of the Tribunal shall be recorded in a document signed by the president or another judicial member and dated when so signed.

(2) Such document shall contain a statement of the reasons for the decision of the Tribunal.

(3) If the Tribunal think fit, they may provide for their decision to have effect on such date as may be specified in the decision.

(4) A proper officer shall send a copy of document recording the decision of the Tribunal to the applicant and each party to the dispute.

(5) Except where provision to the contrary is made, a decision of the Tribunal shall be treated as having been made on the date on which the copy of the document recording it is sent to the applicant.

## PART V

## GENERAL

*Application*

**38.** Rules 39 to 47 apply to all applications and appeals to, and determinations by, the Tribunal under these Rules.

*Quorum*

**39.**— (1) Preliminary hearings, and applications and determinations to which Parts II and IV respectively of these Rules apply, may be heard by a judicial member alone.

(2) Subject to paragraph (3), the quorum for hearing any appeal to which Part III of these Rules relates (other than a preliminary hearing) shall be three, of whom one shall be a judicial member.

(3) Any hearing to which paragraph (2) applies may with the consent of the parties, but not otherwise, be proceeded with in the absence of any one member other than the presiding member.

*Service etc. of notices and documents*

**40.**— (1) Any notice required by these Rules to be served on the Tribunal, and any statement or other document similarly required to be supplied or sent to the Tribunal, may be delivered at the office of the Tribunal or may be sent by registered or recorded delivery post to the Tribunal at that office.

(2) Any statement or other document required by these Rules to be supplied or sent otherwise than to the Tribunal may be delivered to the person to whom it is addressed or sent by registered or recorded delivery post to him at (as the case may be) his principal residence, his place of business or registered office.

*Extension or abridgement of time*

**41.** Upon such terms as they think fit, the Tribunal may extend or abridge any time specified or limited by or under these Rules if the parties to the appeal in question so agree or if the justice of the case appears to the Tribunal so to require.

*Representation at hearings*

**42.**— (1) At any hearing in connection with an application, appeal or determination (including a preliminary hearing) a party may conduct his case himself or may appear and be represented by any person whom he may appoint for that purpose.

(2) Any representative of a party shall be appointed in writing signed by the party in question and shall, if so required by a proper officer, produce his instrument of appointment.

*Discontinuance of proceedings*

**43.**— (1) Any proceedings may be discontinued by the service on the Tribunal by the person who instituted the proceedings of written notice to that effect and, upon the service of such a notice, the proceedings in question shall be deemed to be dismissed.

(2) A proper officer shall send a copy of each notice served under paragraph (1) to every other person who is party to the proceedings in question and (in the case of an application to which Part II, or an appeal to which Part III, of these Rules applies) to the authority and the Secretary of State.

*Records*

**44.**— (1) Subject to paragraph (2), all records of the Tribunal may be inspected at their office by any person.

(2) Paragraph (1) does not apply to the records of any hearing from which

any members of the public are excluded by virtue of paragraph (1) or (3) of rule 22.

*Irregularities*

**45.**— (1) Any irregularity resulting from failure to comply with any provision of these Rules before the Tribunal have reached their decision shall not of itself render the proceedings void.

(2) In any such case the Tribunal may, and shall if they consider that any person may have been prejudiced, take such steps as they think fit before reaching their decision to cure the irregularity.

(3) Clerical mistakes in any document recording a decision of the Tribunal, or errors arising in such a document from an accidental slip or omission, may be corrected by the president by certificate under his hand.

*Review of decisions*

**46.**— (1) The Tribunal may review, and revoke or vary by certificate signed by the president, any decision if a party applies to them for the purpose and satisfies them that—

*(a)* being a party who was entitled to be heard at a hearing but who failed to appear at that hearing, he had a good and sufficient reason for failing to appear; or

*(b)* in any case, the interests of justice require such a review.

(2) An application for the purposes of paragraph (1) of this rule shall be made in writing—

*(a)* if it relates to an application to which Part II of these Rules applies, within 14 days of the date when the decision in question was made; and

*(b)* in any other case, within 28 days of that date,

and shall contain a full statement of the grounds for the application.

(3) Any such application may be refused by the president if in his opinion it has no reasonable prospect of success.

(4) If an application is not refused in accordance with paragraph (3)—

*(a)* it shall be determined by the Tribunal constituted as far as practicable as for the appeal which is the subject of the application;

*(b)* if the application is granted, the Tribunal shall proceed to a review of the decision and those provisions of these Rules which applied to that decision shall apply as far as practicable to the review with the application being treated as the notice or (as the case may be) the notice of appeal;

*(c)* after the review, the Tribunal may confirm, vary or revoke the decision and, if the Tribunal revoke the decision, they shall proceed to determine the appeal again in accordance with the relevant provisions of these Rules.

*Form of Tribunal documents*

**47.** Except where otherwise expressly provided in these Rules—

*(a)* every order of the Tribunal shall be given under the official seal of the Tribunal; and

*(b)* every notice given or sent by the Tribunal shall be signed by a proper officer.

*Practice of Superior Court*

**48.** Where not inconsistent with these Rules, the general principles of practice, or any particular practice, of the Superior Court may be adopted and applied as the Tribunal may think fit.

## PART VI

## COSTS

*Costs*

**49.**— (1) Subject to paragraph (2), in any proceedings before the Tribunal, including proceedings discontinued in accordance with rule 43, the Tribunal may make an order awarding costs against one party and in favour of such other party or parties as may be specified in the order.

(2) An order under paragraph (1) may only be made if the Tribunal consider that the party against whom the order has been made has been responsible for frivolous, vexatious, improper or unreasonable action in making, pursuing or resisting an appeal, and an order may not be made until the party against whom it is proposed to be made has had an opportunity of making representations to the Tribunal.

(3) An order under paragraph (1) may require the party against whom it is made to pay to such other party or parties as may be specified in the order to pay—

*(a)* a specified sum in respect of the costs incurred by such other party or parties in connection with the proceedings; or

*(b)* the whole or a part specified in the order of those costs as taxed (if not otherwise agreed).

(4) Any costs required by an order under this rule to be taxed may be taxed in the county court according to such of the scales prescribed by the county court rules for proceedings in the county court as shall be directed in the order.

(5) In the application of paragraph (4) to Scotland, for the reference to the county court and the county court rules there shall be substituted references to the sheriff court and the sheriff court rules and for the reference to proceedings there shall be substituted a reference to civil proceedings.

Signed by authority of
the Secretary of State.
4th September 1986.

*Caithness,*
Parliamentary Under Secretary of State,
Department of Transport.

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EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules replace the Transport Tribunal Rules 1965 (S.I. 1965/1687), which were made by the Transport Tribunal under paragraph 11 of Schedule 10 to the Transport Act 1962. That provision was repealed on 15th September 1986 by the Transport Act 1985 (Commencement No. 5) Order 1986 (S.I. 1986/1450), and on that date the former Rules ceased to apply, except in relation to appeals made before the coming into operation of these Rules.

Part I of these Rules deals with citation, commencement and interpretation.

Part II of the Rules (rules 3 to 8) applies to applications to the Transport Tribunal under section 69(10) of the Transport Act 1968 or section 50(8) of the Public Passenger Vehicles Act 1981, being applications to the Tribunal for directions staying the effect of certain orders or directions of the traffic commissioner (whether acting as such, or as the licensing authority under Part V of the 1968 Act) pending an appeal to the Tribunal. Such applications must be made in writing (rule 4) and must state reasons (rule 5). The authority may respond in writing to an application (rule 6), and the Tribunal may allow both applicant and authority to appear before them (rule 7). The decision of the Tribunal is to be recorded in writing, and copies of the relevant document are to be sent to the applicant and the authority (rule 8).

Part III (rules 9 to 30) applies to appeals to the Tribunal under section 70(1) of the Act 1968 (appeals relating to goods vehicles operator licensing), section 50 of the Public Passenger Vehicles Act 1981 (appeals relating to public service vehicle operator licensing) and section 111 of the Transport Act 1985 (appeals relating to reductions in fuel duty grant). Appeals are to be made in writing, with a statement of reasons, and are to be copied to the Secretary of State, the licensing authority and objectors; appeals are to be made within 28 days of the decision appealed against, unless the Tribunal allow otherwise (rules 10 to 12). The licensing authority is required to supply copies of certain of his papers, the parties may submit replies to the appeal, and the Tribunal may require the submission of written replies and statements and may order discovery of documents; the Tribunal is also required to notify representors of the appeal (rules 13 to 18). The Tribunal may order points of law to be determined at a preliminary hearing (rule 19). The Tribunal are to appoint a date, time and place for hearing each appeal, and notice is to be given to the parties, the authority and the Secretary of State; subject to exceptions, hearings are to be in public and the Tribunal may proceed with a hearing in the absence of a party

(rules 20 to 24). At a hearing, unless the Tribunal allow otherwise the parties are limited to the grounds stated in their written documents, and may not adduce new evidence; evidence may be given by affidavit (rules 25 and 26). The conduct of proceedings at a hearing is at the discretion of the Tribunal, and the parties may address the Tribunal and sum up (rules 27 and 28). Appeals may be consolidated, and the Tribunal may change the arrangements for hearings (rule 29). The decision of the Tribunal is to be recorded in writing and copies of the relevant document are to be sent to the parties, the authority and the Secretary of State (rule 30).

Part IV (rules 31 to 37) applies to disputes arising between the Post Office and British Rail or shipping companies under section 29 or 35 of the Post Office Act 1953. Disputes are to be referred to the Tribunal by notice containing a statement of reasons and copied to the other parties; those parties have 14 days in which to deliver an answer (rules 32 and 33). The parties may with the leave of the Tribunal amend their written documents, and are to be given an opportunity of being heard; any party failing to deliver an answer may only be heard by leave of the Tribunal (rules 34 to 36). The decision of the Tribunal is to be recorded in writing, and copies of the relevant document are to be sent to the parties (rule 37).

Part V (rules 38 to 47) contain provisions of general application relating to quorum (rule 39); service of notices and documents (rule 40); extensions or abridgements of time (rule 41); representation at hearings (rule 42); discontinuance of proceedings (rule 43); records of the Tribunal (rule 44); irregularities (rule 45); review of decisions (rule 46); the form of Tribunal documents (rule 47); and the practice to be followed by the Tribunal in circumstances not provided for in these Rules (rule 48).

Part VI (rule 49) deals with costs. Rule 49 makes provision for the Tribunal to award costs, and for the taxation of any costs awarded.

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