

STATUTORY RULES AND ORDERS

1947 No $\frac{2271}{L. 30}$ **BRITISH TRANSPORT COMMISSION****Arbitration Tribunal**

THE TRANSPORT ARBITRATION TRIBUNAL RULES, 1947, DATED OCTOBER 13, 1947, MADE BY THE TRANSPORT ARBITRATION TRIBUNAL UNDER SECTION 106(5) OF THE TRANSPORT ACT, 1947 (10 & 11 GEO. 6. C. 49) AND APPROVED BY THE LORD CHANCELLOR.

Rules regulating the procedure in or in connection with any proceedings before the Tribunal.

Whereas we, the undersigned, Cyril Montgomery White, one of His Majesty's Counsel, Basil Gage Catterns and Sir Russell Kettle, are the three persons appointed by the Lord Chancellor in exercise of the power conferred on him by the Transport Act, 1947, to be members of the Transport Arbitration Tribunal;

And whereas by section 106(5) of the said Act it is provided that, subject to the provisions of that section, the procedure in or in connection with any proceedings before the Tribunal shall be such as may be determined by rules to be made by the Tribunal with the approval of the Lord Chancellor;

Now therefore we, subject to the approval thereof by the Lord Chancellor, do hereby make the following Rules:—

PART I

Introductory

1. These Rules may be cited as the Transport Arbitration Tribunal Rules 1947.

2.—(1) In these Rules the following expressions shall (if not inconsistent with the context or subject matter) have the respective meanings hereinafter assigned to them, that is to say:—

“ The Act ” shall mean the Transport Act 1947:

Expressions used in the Act shall have the same meanings as in the Act:

“ The Tribunal ” shall mean the Transport Arbitration Tribunal established under section 105 of the Act:

“ The Clerk ” shall mean the person for the time being performing the functions of clerk to the Tribunal:

“ The Office ” shall mean the office at 39 Belgrave Square, London, S.W.1 of the Tribunal, or other the office for the time being of the Tribunal:

“ The securities ” shall mean the securities specified in Part II of the Fourth Schedule to the Act:

“ The Minister ” shall mean the Minister of Transport:

“ The Commission ” shall mean the Transport Commission established under the Act.

(2) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

3. These Rules may from time to time be revoked, altered or added to by the Tribunal by Rules made with such approval as is required under section 105 of the Act.

4. These Rules shall not apply to proceedings which under Part VIII of the Act are to be treated as Scottish proceedings.

PART II

Valuation of Securities

5. Rules 6 to 12 (inclusive) of these Rules relate solely to proceedings for the determination of the value of the securities under section 17 of the Act.

6.—(1) As regards each of the securities, the Commission shall with all convenient speed apply to the Tribunal for the determination of the value thereof by filing at the Office a statement containing, or having attached thereto, the particulars hereinafter specified, and shall at the time of the filing of such statement leave at the Office (a) four additional copies thereof and of all attachments thereto and (b) a schedule of the names and registered addresses of each of the persons appearing from the books of the company or other body of persons to have been at a date specified in such schedule (not being earlier than 14 days before the date of the filing of the statement) to be the holders of each of the securities to which the statement relates, and of the amount of the holding of each such person: Provided that, where several securities of one company or other body of persons are specified in Part II of the Fourth Schedule to the Act, the statement to be filed under this Rule shall, unless the Tribunal on the application of the Commission or of the Minister or of any other interested person or of its own motion otherwise directs, be a combined statement relating to all the securities of such company or other body of persons so specified.

(2) Every such statement shall be headed in the matter of the Act and of the securities to which the same relates.

7. The particulars to be contained in or attached to the statement to be filed under Rule 6 shall include the following:—

- (1) The name of the company or other body of persons to the securities whereof the statement relates:
- (2) The description of the securities to which the statement relates:
- (3) The date of the issue of each of the securities to which the statement relates:
- (4) The amount or rate per cent. of any dividend or interest declared or paid on each of the securities to which the statement relates at any time during the period of ten years next preceding the passing of the Act, or, in the case of any securities on which no dividend or interest has been declared or paid within the period aforesaid, the date and amount or rate per cent. of the last payment of any dividend or interest on such securities:
- (5) Copies of the audited balance sheets and published accounts of the company or other body of persons for each of the last ten accounting periods of the company or other body of persons for which accounts shall have been prepared and audited before the date of the filing of the statement, together with a statement in columnar form of the revenue, net revenue and appropriation accounts or equivalent accounts (figures being given to the nearest pound) for each of such accounting periods:
- (6) Particulars of all dealings in or transfers for valuable consideration of the securities to which the statement relates appearing from the books of the company or other body of persons to have taken place since the 1st January, 1945, or, if there shall appear to have been no such dealings or transfers, then particulars of the last recorded dealing or transfer for valuable consideration:

(7) Such other facts or circumstances as may appear to the Commission to be relevant to the determination in accordance with the provisions of the Act of the value of the securities:

(8) The amount (expressed in terms of prices per £100 nominal value) suggested by the Commission as the value to be set upon each of the securities to which the statement relates in accordance with the provisions of the Act:

(9) The address at which any notice, answer, order or other document in the proceedings may be served upon the Commission.

8.—(1) Every such statement as aforesaid shall be endorsed by the Commission with a notice addressed in general terms to the holders of all securities to which the statement relates requiring such holders to put in an answer to the statement within 14 days from the service of the notice referred to in Rule 9, and stating that in default of such answer being put in within such period of 14 days, or any extension thereof duly granted, the Tribunal may proceed to determine the value of the securities to which the statement relates without further notice to any holder who shall fail to put in such answer.

(2) Every such endorsement shall be sealed with the seal of the Tribunal and the copy of the statement bearing such sealed endorsement shall be retained by the Clerk in the Office.

9.—(1) As soon as may be after the sealing of the endorsement aforesaid, the Commission shall serve upon the Minister a copy of the said statement having endorsed thereon a copy of the said endorsement, and shall also serve upon every holder of any of the securities to which such statement relates a notice having endorsed thereon a copy of the said endorsement. Every such notice shall be to the effect that the statement referred to in Rule 6 has been filed at the Office and has been endorsed as aforesaid and that a full copy of such statement will be supplied by the Commission on demand free of charge and such notice shall also set out the particulars specified in paragraphs (1) (2) (8) and (9) of Rule 7. A copy of every such notice shall forthwith be filed by the Commission at the Office.

(2) The Commission shall upon demand by any holder of any of the securities supply to such holder free of charge a full copy of the statement relating to such securities filed under Rule 6 with all attachments thereto, and, if any such demand shall be made within 10 days after service of the notice referred to in this Rule, the time for putting in an answer to such statement shall, without further application to the Tribunal, be extended until the expiration of 10 days from the service on such holder of such full copy of the said statement and of all attachments thereto.

10.—(1) Any such holder as aforesaid of any of the securities may put in an answer to the statement filed by the Commission as aforesaid at any time within the period limited by the said endorsement thereon or any extension thereof by serving upon the Commission an answer in writing to such statement and delivering at the Office six copies of such answer whereof one copy shall be served by the Clerk upon the Minister.

(2) In such answer such holder shall state whether it is the desire of such holder to be heard by the Tribunal on the hearing of the application of the Commission, and shall specify which (if any) of the allegations of fact contained in such statement are denied or not admitted, and shall also state any further or other facts or circumstances appearing to such holder to be relevant to the determination in accordance with the provisions of the Act of the value of the securities to which the statement relates and generally set out the contentions and claim of such holder.

(3) Every such answer shall specify an address at which any further proceedings or notices may be served upon such holder.

11. If the holder of any securities of any company or other body of persons appoints the directors thereof to act as his representatives pursuant to proviso (c) to section 17 (3) of the Act, such holder shall forthwith give to the Tribunal and to the Commission notice in writing of such appointment and shall specify therein an address at which any further proceedings or notices may be served upon such directors, and shall at the same time file at the Office the consent in writing of such directors to act as such representatives, and thereafter the proceedings shall be carried on by such directors as the representatives of and on behalf of such holder but otherwise in all respects as if they were themselves the holders of such securities.

12.—(1) If it shall appear to the Commission that, with regard to any of the particulars required to be contained in or attached to a statement to be filed or schedule to be left at the Office under Rule 6, it is impossible or impracticable without undue delay to furnish such particulars, the Commission may either (a) apply to the Tribunal for directions before filing any such statement, or (b) file a statement containing or having attached thereto such particulars as the Commission may be able to furnish and at the same time apply to the Tribunal for directions.

(2) Any such application for directions shall be served upon the Minister, but shall not be served upon any other person unless the Tribunal otherwise directs.

(3) Any such application for directions made before the filing of a statement shall be headed in the same manner as if the same were a statement filed under Rule 6.

(4) With every application for directions under this Rule there shall be filed a statement of the circumstances in which the application is made.

(5) Where any such application for directions is made after the filing of a statement under Rule 6, no notice shall be served under Rule 9 upon any holder of any of the securities to which such statement relates until the Tribunal so directs.

PART III

Other Proceedings before the Tribunal

13. Rules 14 to 19 (inclusive) of these Rules relate solely to proceedings before the Tribunal other than proceedings for the determination of the value of the securities under section 17 of the Act.

14.—(1) All proceedings before the Tribunal for the determination of any question or dispute, or for obtaining the approval by the Tribunal of any agreement, shall be commenced by filing at the Office an originating application in writing to the Tribunal signed by the applicant or by the solicitors or (in the case of a company or corporation) the secretary or other proper officer of the applicant on behalf of the applicant.

(2) Every such application shall name as a respondent every party to the question, dispute or agreement, or other person appearing to be directly interested in the subject of the application and shall also contain a certificate that the application does not relate to proceedings which under Part VIII of the Act are to be treated as Scottish proceedings.

(3) If any such proceedings shall be for obtaining the approval by the Tribunal of any agreement, the applicant shall at the time of filing such

originating application also file at the Office the agreement together with four copies thereof, and shall also serve upon the Minister a copy of the said agreement.

(4) Every applicant shall state in his originating application an address at which any notice, order, or other document in the proceedings may be served upon him.

15. An originating application shall be in the form of Form No. 1 in the Appendix to these Rules or as near thereto as circumstances will admit.

16.—(1) The applicant shall at the time of filing such originating application leave at the Office five additional copies thereof, and shall as soon as may be thereafter serve upon each respondent named therein a copy of the originating application having endorsed thereon a notice in the following terms:—

“ To the respondent (*naming the respondent served*).

“ You will in due course be served with a statement setting out the facts alleged by and contentions of the applicant, and it is not necessary for you to take any step in these proceedings until after service of such statement upon you.”

(2) Every such endorsement shall be sealed with the seal of the Tribunal.

(3) One copy of the originating application shall forthwith be served by the Clerk upon the Minister.

17.—(1) The Tribunal may at any time upon the application of any person, whether an applicant or respondent or not, or of its own motion, direct that any person appearing to the Tribunal to be directly interested in the subject of the application be added as a respondent, and thereupon the applicant shall forthwith serve upon such person a copy of the originating application having endorsed thereon a notice in the terms set out in the preceding Rule and sealed with the seal of the Tribunal.

(2) The Tribunal may likewise, upon any such application as aforesaid, or of its own motion, order that any respondent named in the originating application or subsequently added, who shall appear to the Tribunal not to have been or to have ceased to be directly interested in the subject matter of the application, be dismissed from the proceedings upon such terms as the Tribunal may think fit.

18.—(1) Within 14 days from the filing of an originating application the applicant shall serve upon each respondent a statement in writing, signed by or on behalf of the applicant, of the facts alleged by the applicant and of such other matters as may appear to the applicant to be relevant to the application and of the contentions of the applicant, and the applicant shall at the same time deliver at the Office six copies of such statement, whereof one copy shall forthwith be served by the Clerk upon the Minister.

(2) Every such statement served upon a respondent shall have endorsed thereon a notice in the following terms:—

“ To the Respondent (*naming the respondent served*)

If you do not admit or wish to deny any of the facts alleged or do not agree with any of the contentions put forward in this statement, or if you wish to allege any additional or other facts or to put forward any other contentions, you should within 14 days after service of this statement upon you, or within such extended period as the Tribunal may allow, serve upon the applicant at the applicant's address for service an answer to

this statement and also deliver to the Tribunal at its Office at 39, Belgrave Square, London, S.W.1, six copies of your answer. Your answer should conform to the provisions of the Transport Arbitration Tribunal Rules, 1947, and should state an address at which any further notices, orders or other documents in these proceedings may be served upon you."

(3) Every such endorsement shall be sealed with the seal of the Tribunal.

19.—(1) Every respondent may within 14 days after service upon him of the statement of the applicant so endorsed serve upon the applicant an answer to the statement of the applicant. Such answer shall be in writing signed by or on behalf of the respondent.

(2) In such answer the respondent shall state which (if any) of the facts alleged in the statement of the applicant are denied or are not admitted by the respondent, and such answer shall include a statement of any additional or other facts alleged by the respondent and of such other matters as may appear to the respondent to be relevant to the proceedings and of the contentions of the respondent.

(3) Any fact alleged in the statement of an applicant, and not expressly denied or not admitted in an answer served by a respondent, shall as against such respondent be taken to be admitted, but without prejudice to the power of the Tribunal to require proof thereof.

(4) The respondent shall at the time of serving such answer deliver at the Office six copies thereof, whereof one copy shall be served by the Clerk upon the Minister.

(5) Every respondent shall state in his answer an address at which any notice, order or other document in the proceedings may be served upon him.

PART IV

General

20. The Clerk shall allot to every statement filed under Rule 6 and to every originating application to the Tribunal a distinctive serial number which shall be written in the top right hand corner of and also endorsed upon such statement or application, and every subsequent notice, statement, answer order or other document relating to the same proceedings shall likewise have the same distinctive serial number written in the top right hand corner thereof and also endorsed thereon, and shall also bear the same heading as such statement or originating application.

21. The Clerk shall make and keep a list or lists of all applications to the Tribunal with the distinctive numbers thereof and the dates thereof and such list or lists may be inspected at the Office during office hours.

22. Every application, notice, statement, answer order or other document relating to any matter shall be filed by the Clerk under the distinctive serial number thereof, and the file relating to any such matter may be inspected at the Office during office hours by the Minister or by any person appearing to the Clerk to have an interest in the matter or by their respective agents thereto authorized. If any dispute or question arises as to whether any person ought to be permitted to inspect any such file, such dispute or question shall be determined by the Tribunal on the application of the person seeking such inspection.

23. Except by special leave of the Tribunal and subject to the provisions of these Rules, no further step in any proceedings before the Tribunal shall be taken until after the expiration of the time limited for service of an answer by every respondent or of such extension of such time as the Tribunal may allow.

24.—(1) Any party to any proceedings before the Tribunal may at any time, subject to the provisions of Rule 23 hereof, apply to the Tribunal for directions of an interlocutory nature, including directions for delivery of further and better particulars of any allegation, for leave to serve any reply or rejoinder or to amend any statement, answer, or other pleading, for discovery of documents and interrogatories, for the extension or abridgement of the time for taking any step in the proceedings, for fixing the day of the hearing, or for any other purpose.

(2) Any such application shall be heard and determined by the Clerk: provided always that the Clerk may, and shall at the request of any party to the application, made either at the hearing of the application or within such time (not being less than four days) as the Clerk may fix at the hearing of the application, adjourn the application to be heard and determined by the Tribunal or by a single member thereof.

(3) Any application so adjourned to be heard by a single member of the Tribunal may likewise, and shall at the request of any party to the application, made either at the hearing of the application or within such time (not being less than four days) as such member may fix at the hearing of the application, be adjourned to be heard and determined by the Tribunal.

(4) Any order made by the Clerk or a single member of the Tribunal under this Rule shall be deemed to be the order of the Tribunal.

25.—(1) The party making an application of an interlocutory nature shall obtain from the Clerk an appointment for the hearing thereof and shall give to every other party not less than seven days' notice of the appointment. Such notice shall be in the form of Form No. 2 in the Appendix to these Rules.

(2) Before making any such application, the party seeking the order shall, if it is reasonably possible so to do, endeavour to obtain the consent thereto of every other party. Where such consent is obtained, the application may be made by letter addressed to the Clerk and enclosing the consent in writing signed by or on behalf of the other parties, and the Tribunal may thereupon make the order and notify the parties thereof: provided that if the Tribunal desires to hear the parties the Clerk shall inform the parties in writing accordingly, and give not less than seven days' notice of an appointment for the hearing.

26. The Tribunal may of its own motion at any stage of any proceedings before it, give any directions of an interlocutory nature after hearing the parties at a meeting of the Tribunal whereof not less than seven days' notice in writing shall be given to the parties by the Clerk or may communicate with the parties in writing and may require answers to such inquiries as the Tribunal may think fit to make.

27.—(1) Every notice or other document which in pursuance of these Rules is required to be given or served shall, unless otherwise directed by the Tribunal, be served:—

(a) in the case of the Commission or of a local authority or corporate body or company, by delivering the same to their clerk or secretary, or leaving the same at his office with some person employed there, or by sending the same by post addressed to such clerk or secretary at his office; or

(b) in the case of the Minister, by leaving the same at or sending the same by post to the office of the Ministry of Transport at Berkeley Square House, London, W.1; or

(c) in any other case by delivering the same personally to the person required to be served or to any agent of such person authorized to accept service thereof, or by leaving the same at the usual or last known place of abode of such person as aforesaid, or by sending the same by post addressed to the usual or last known place of abode of such person:

Provided always that:—

(i) where any party to any proceeding has specified an address for service under the provisions of these Rules, service of any such notice or document shall be made by leaving the same at or sending the same by post addressed to the address for service so specified, and

(ii) unless otherwise directed by the Tribunal, service of any notice required under Rule 9(1) to be served upon the holder of any securities may be made by sending the same by post addressed to the person appearing from the schedule left at the Office under Rule 6 to be the holder of such securities at the address of such person appearing in such schedule.

(2) The filing (by any person other than the Clerk) or delivery of any document required by these Rules to be filed or delivered at the Office may be effected by leaving the same at the Office or by sending the same by post as a registered letter addressed to the Clerk at the Office.

(3) Notwithstanding anything in these Rules contained it shall not be necessary, unless the Tribunal otherwise directs, to serve any notice upon any person (other than the Minister) who shall have made default in the service of an answer within the time limited by these Rules or any extension thereof allowed by the Tribunal, and any notice which ought otherwise to be served upon such person shall be filed at the Office, if not so served.

(4) It shall not be necessary, unless the Tribunal otherwise directs, to serve upon the Minister notice of any application for, or meeting held by the Tribunal for the purpose of giving, directions of an interlocutory nature, in any proceedings unless the Minister shall previously have filed at the Office, and shall not have withdrawn, notice of his desire to be heard in such proceedings.

28. If it shall appear to the Tribunal that any respondent or other person interested in the subject of any application cannot be found, or has died and has no personal representative, or is out of the United Kingdom, or that for any other reason service upon any respondent or other such person cannot readily be effected in accordance with the foregoing Rules, the Tribunal may dispense with service upon any such respondent or other person, or make an order for substituted service upon any other person, or appoint any other person to represent such respondent or person or his estate, or direct that an advertisement in such form and in such newspaper as the Tribunal shall think proper shall be deemed to be good service upon such respondent or other person.

29. Any party to any proceedings may at any time by notice in writing served upon the Tribunal and every other party to that proceeding change his address for service under the provisions of these Rules.

30. The sittings of the Tribunal for the hearing of all matters which are to be determined by the Tribunal shall be held at dates, times and places to be from time to time determined by the Tribunal and announced by them.

Not less than 24 hours before the hearing of any application the applicant, or in the case of an interlocutory application the party or person making such application, shall lodge with the Clerk at the Office such number of copies of any relevant documents as the Clerk shall reasonably require.

31. Upon the hearing of any application or other matter at any stage of any proceedings the Tribunal may determine the order in which the parties thereto shall be heard, and may allow any amendment of any notice, statement, answer or other document, and, subject to the provisions of the Act, may dispense with the observance of any of the provisions of these Rules, or extend or abridge the time for taking any step in the proceedings, on such terms as may seem just.

32. In any proceedings before the Tribunal any of the following persons may address the Tribunal, namely:—

- (a) Any applicant, respondent, or other party to the proceedings, not being a company or corporate body;
- (b) A barrister retained by or on behalf of any party;
- (c) A solicitor acting generally in the proceedings for a party thereto, but not a solicitor retained as an advocate by a solicitor so acting;
- (d) Any other person allowed by leave of the Tribunal to appear instead of any party:

Provided that in proceedings before the Clerk, a managing clerk in the employ of a solicitor acting generally in the proceedings for any party may appear and address the Clerk.

33. Evidence before the Tribunal may be given orally, or, if the parties to the proceedings consent or the Tribunal so orders, by affidavit, but the Tribunal may at any stage of the proceedings make an order requiring the personal attendance of any deponent for examination and cross-examination.

34. In dealing with the costs of any proceedings, or of any application in any proceedings, the Tribunal may take into account any failure or refusal on the part of any person to consent to any proposed interlocutory direction, or to admit any document or fact specified in any notice to admit documents or facts served upon that person.

35. Non-compliance with any of these Rules shall not render any proceeding in any matter referred to the Tribunal void, unless the Tribunal shall so direct, but such proceeding may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with in such manner and upon such terms as the Tribunal shall think fit.

36. All orders of the Tribunal shall be sealed with the seal of the Tribunal.

Dated the 13th day of October, 1947.

C. Montgomery White.
B. G. Catterns.
R. Kettle.

Approved,
Jowitt, C.

APPENDIX

Form No. 1

THE TRANSPORT ARBITRATION TRIBUNAL

No.

IN THE MATTER of THE TRANSPORT ACT 1947

AND IN THE MATTER of a question

BETWEEN (Name of applicant)

Applicant

and

(Name(s) of respondent(s))

Respondent(s)

The above-named applicant

of

hereby applies to the Transport Arbitration Tribunal pursuant to the provisions of the Transport Act 1947 for the determination of the following question(s) arising under section of the said Act:—

(or for the approval by the Tribunal under section 108 of the said Act of an agreement dated etc. and made etc. or as the case may require.)

The applicant hereby certifies that this application does not relate to proceedings which under Part VIII of the said Act are to be treated as Scottish proceedings.

It is intended to serve this application upon the above-named respondent(s) of

who is (are) interested in the subject of this application and upon the Minister of Transport.

The address for service of the applicant is

Dated etc.

(Signed)

Form No. 2

(Heading as in statement filed under Rule 6 or in originating application.)

Notice is hereby given to all parties concerned to attend before the Clerk of the Transport Arbitration Tribunal at the Office of the Tribunal at 39 Belgrave Square, London, S.W.1 (or other place appointed for the hearing), on the 19, at o'clock in the noon on the hearing of an application on the part of for an order that

Dated etc.

(Signed)

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