

## 2002 No. 199

### TRANSPORT

#### The Bus User Complaints Tribunal Regulations 2002

*Made*

*22nd April 2002*

*Coming into force*

*23rd April 2002*

The Scottish Ministers, in exercise of the powers conferred by sections 41(1), (2) and (3) and 81(2) of the Transport (Scotland) Act 2001(a) and of all other powers enabling them in that behalf hereby make the following Regulations, a draft of which has, in accordance with section 81(4) of that Act, been laid before, and approved by resolution of the Scottish Parliament:

#### **Citation and commencement**

1. These Regulations may be cited as the Bus User Complaints Tribunal Regulations 2002 and shall come into force on the day after the day on which they are made.

#### **Interpretation**

2. In these Regulations—

“the Act” means the Transport (Scotland) Act 2001;

“bus operator” means the operator of local service;

“the Tribunal” means the Bus User Complaints Tribunal established under regulation 3(1).

#### **Establishment of the Bus User Complaints Tribunal**

3. There is established from the date of coming into force of these Regulations a tribunal to be known as the Bus User Complaints Tribunal for the purpose specified in section 41(1) of the Act.

#### **Procedure-general**

4. Other than as specified in these Regulations the procedure to be followed by and before the Tribunal shall be determined by the Tribunal.

#### **Making a complaint**

5.—(1) A written complaint shall be made by a notice of complaint sent to the Tribunal.

(2) A notice of complaint—

- (a) shall be sent to the Tribunal within 28 days of the date on which the complainant has been advised that the bus operator has determined the relevant complaint;
- (b) shall state the full name and address of the complainant;
- (c) may specify some other address as being the address to which documents may be sent in connection with the complaint;
- (d) shall specify the date on which the relevant complaint was made and the nature of any determination made by the bus operator on that complaint; and

(e) may include any representations which the complainant wishes to make.

(3) The notice of complaint shall be signed by the complainant or an authorised representative.

#### **Action upon receipt of notice of complaint**

6.—(1) Upon receiving a notice of complaint in accordance with regulation 5, the Tribunal shall—

- (a) send an acknowledgement of receipt to the complainant;
- (b) enter particulars of the complaint in a register maintained by the Tribunal for that purpose; and
- (c) send a copy of the notice of complaint to the bus operator.

(2) Upon receiving a copy of the notice of complaint in accordance with paragraph (1)(c), the bus operator shall within 21 days send to the Tribunal a copy of—

- (a) the original representations contained in the relevant complaint;
- (b) its response to those representations; and
- (c) its response to the notice of complaint.

#### **Further representations**

7.—(1) The convener may invite a party to send to the Tribunal representations dealing with any matter relating to the complaint within such time and in such a manner as may be specified by the convener.

(2) Any representations sent under this regulation shall be signed by the party concerned or an authorised representative.

(3) Where the complainant sends representations to the Tribunal under this regulation, the Tribunal shall send a copy of the representations to the bus operator.

(4) Where the bus operator sends representations to the Tribunal under this regulation, it shall at the same time send a copy of those representations to the complainant.

#### **Determining the complaint**

8.—(1) The Tribunal shall consider the notice of complaint and any additional representations submitted under regulation 7(1) by the complainant and any representations and response submitted by the bus operator under regulations 6(2) and 7(1) and shall, subject to paragraph 2, determine the complaint.

(2) Where, following consideration under paragraph (1), the Tribunal is unable to determine the complaint without further information it may adjourn its consideration to a future date to be specified and request further information from the complainant, bus operator or any other person whom it believes to be in possession of the information so required.

(3) The Tribunal shall advise the complainant and bus operator of an adjournment under paragraph (2).

(4) The determination when given shall be entered forthwith in the register maintained under regulation 6(1)(b) with a statement of the reasons for the decision and the Tribunal shall send a copy of that entry to the complainant and bus operator.

#### **Appeal from Tribunal's determination**

9.—(1) The convener shall have power to consider, on the application of a party, an appeal against a determination issued under regulation 8(1) to dismiss or allow a complaint or any decision as to compensation on the grounds in each case that—

- (a) the decision was wrongly made as the result of an error on the part of the Tribunal's staff;
- (b) where the decision was made after the complaint has been disposed of under regulation 8, new evidence has become available since the disposal the existence of which could not have been reasonably known of or foreseen; or
- (c) the interests of justice require such an appeal.

(2) An appeal under this regulation shall be made to the Tribunal within 14 days after the date on which a copy of the entry of the decision was sent to the complainant and bus operator under regulation 8(4) and must state in full the grounds of appeal.

(3) The parties shall have the opportunity to submit written representations on any application for appeal under this regulation and if, having considered the determination and any written representations, the convener directs that the appeal is to be upheld the convener shall issue a substitute determination.

### **Compensation**

**10.** The Tribunal may, on making a determination, require the bus operator to make payment to the complainant of such compensation for actual loss incurred as is reasonable in the circumstances.

### **Miscellaneous powers of the Tribunal**

**11.—(1)** The Tribunal may, if it thinks fit—

- (a) extend the time appointed by or under these Regulations for doing any act notwithstanding that the time appointed may have expired;
- (b) if the complainant at any time gives notice of the withdrawal of the complaint, dismiss the proceedings;
- (c) if the bus operator consents to the complaint being allowed, allow the complaint;
- (d) if the complaint is allowed under paragraph (c) make a determination allowing the complaint and may award compensation in accordance with regulation 10.

### **Sending of documents**

**12.—(1)** This regulation has effect in relation to any notice or other document required or authorised by these Regulations to be sent to a party to an appeal, to the Tribunal or to any other person.

(2) Subject to paragraph (3), any such document shall be regarded as having been sent to the person concerned if it is—

- (a) delivered personally;
- (b) left at the person's proper address;
- (c) sent to that address by post or through a document exchange; or
- (d) transmitted by FAX or other means of electronic data transmission in accordance with paragraphs (3), (4) and (5).

(3) A document may be transmitted to the person concerned by FAX where that person has indicated in writing that the document will be considered to have been duly sent if it is transmitted to a specified FAX number and the document is transmitted to that number.

(4) In the case of the bus operator, an indication under paragraph (3) can be expressed to apply to any appeal to which it is a respondent.

(5) Paragraphs (3) and (4) shall apply with the appropriate modification to a transmission of electronic data other than by FAX as it applies to a transmission by FAX.

(6) Where the proper address includes a numbered box number at a document exchange, a document may be sent by leaving the document addressed to that numbered box at that document exchange or at a document exchange which transmits documents every business day to that exchange; and any document which is left at a document exchange in accordance with this paragraph shall, unless the contrary is proved, be deemed to have been delivered on the second business day following the day on which it is left.

(7) For the purposes of these Regulations and of paragraph 4 of Schedule 1 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999(a) in its application to this regulation—

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(a) S.I. 1999/1379.

- (a) the proper address of the complainant is the address specified in the notice of complaint pursuant to paragraph (2)(b) of regulation 5 or (if no such address is so specified) the address stated pursuant to paragraph (2)(c) of that regulation; and
- (b) the proper address of the bus operator in proceedings in which it is the respondent is such address as the bus operator from time to time specifies in a notice sent to the Tribunal as being the proper address in all such proceedings.

(8) If no address has been specified or stated, the proper address for the purposes of these Regulations and paragraph 4 of Schedule 1 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999 shall be the person's usual or last known address.

(9) A complainant may at any time by notice in writing (which, for the purposes of this regulation shall include communication in electronic form) to the Tribunal change the proper address for the purposes of these Regulations and paragraph 4 of Schedule 1 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999.

(10) A party may by notice in writing sent to the Tribunal vary or revoke any indication given by that party under paragraph (3).

### **Tenure of office**

**13.—**(1) Any person appointed to be the convener or a member of the Tribunal shall hold and vacate office in accordance with the terms of that person's appointment and shall, on ceasing to be a member of the Tribunal, be eligible for re-appointment.

(2) Any person so appointed may at any time resign by written notice given to the Scottish Ministers.

### **Reports to the Scottish Ministers**

**14.** At the end of each calendar year the Tribunal shall make and submit to the Scottish Ministers a report containing the following information from that calendar year:—

- (a) the total number of complaints received;
- (b) the number of relevant complaints;
- (c) the number of relevant complaints resolved prior to a determination by the Tribunal;
- (d) the number of relevant complaints determined by the Tribunal;
- (e) the nature of any determinations made;
- (f) a statement from the convener on any trends identified from the relevant complaints received and any other matters relating to relevant complaints which the convener deems appropriate; and
- (g) a statement of the remuneration and allowances paid to the convener and members.

### **Laying reports before the Scottish Parliament**

**15.** The Scottish Ministers shall, as soon as possible following the submission of the report to them, lay before the Scottish Parliament a copy of the report made under regulation 14.

### **Reports to the Traffic Commissioner**

**16.** The Tribunal shall make and submit to the traffic commissioner the following:—

- (a) a quarterly report containing the information for that quarter as detailed at paragraphs (a) to (f) of regulation 14; and

- (b) any other reports prepared by the Tribunal on the operation of any bus service which has been the subject of complaint to the Tribunal and which the Tribunal considers appropriate to forward to the traffic commissioner.

St Andrew's House,  
Edinburgh  
22nd April 2002

*LEWIS MACDONALD*  
Authorised to sign by the Scottish Ministers

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations establish the Bus Users Complaints Tribunal and provide for the determination of written complaints under Section 41 of the Transport (Scotland) Act 2001 in connection with the operation of local services.

Regulations 5 and 6 set out the procedures for making and receiving complaints from any individuals.

Regulation 7 makes provision for the convener of the Tribunal to invite further representations relating to the complaint.

Regulation 8 makes provision for the Tribunal to determine the complaint.

Regulation 9 enables the convener to consider an appeal against a determination.

Regulation 10 makes provision for the Tribunal to award reasonable compensation for actual loss incurred.

Regulation 11 makes provision for the Tribunal to extend time limits or dismiss or allow appeals.

Regulation 12 sets out the procedure for sending documents to each party, the Tribunal or to any other person.

Regulation 13 stipulates the tenure of office for the Tribunal members.

Regulations 14 and 16 stipulate the details to be included in reports to both the Scottish Ministers and the Traffic Commissioner and when these reports should be made.

Regulation 15 makes provision for the Scottish Ministers to lay the report made under regulation 14 before the Scottish Parliament.



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