

## SCHEDULE 4

Article 4(4)

### Transitional and saving provisions

#### **Transitional and saving provisions**

1.—(1) Any proceedings before the Transport Tribunal in relation to the Road Traffic Act 1988<sup>(1)</sup>, the Road Traffic Offenders Act 1988<sup>(2)</sup>, the Postal Services Act 2000<sup>(3)</sup>, the Vehicle Drivers (Certificates of Professional Competence) Regulations 2007<sup>(4)</sup> or the European Communities (Recognition of Professional Qualifications) Regulations 2007<sup>(5)</sup> pending immediately before 1st September 2009 shall continue on and after 1st September 2009 as proceedings before the First-tier Tribunal.

(2) Any proceedings before a panel of persons appointed by the Lord Chancellor under section 189(6) of the Greater London Authority Act 1999<sup>(6)</sup> (“appeal panel”) pending immediately before 1st September 2009 shall continue on and after 1st September 2009 as proceedings before the First-tier Tribunal.

(3) Any proceedings before the Transport Tribunal in relation to the Public Passenger Vehicles Act 1981<sup>(7)</sup>, the Transport Act 1985<sup>(8)</sup>, the Goods Vehicles (Licensing of Operators) Act 1995<sup>(9)</sup>, section 155 of the Transport Act 2000<sup>(10)</sup>, the Local Transport Act 2008<sup>(11)</sup>, the Goods Vehicles (Community Authorisations) Regulations 1992<sup>(12)</sup>, the Public Service Vehicles (Community Licences) Regulations 1999<sup>(13)</sup>, the Road Transport (Passenger Vehicles Cabotage) Regulations 1999<sup>(14)</sup> and the Goods Vehicles (Enforcement Powers) Regulations 2001<sup>(15)</sup> which are pending immediately before 1st September 2009 shall continue on and after 1st September 2009 as proceedings before the Upper Tribunal.

2.—(1) The following sub-paragraphs apply where proceedings are continued in the First-tier Tribunal or Upper Tribunal by virtue of paragraph 1.

(2) Where a hearing began before 1st September 2009 but was not completed by that date, the First-tier Tribunal or Upper Tribunal, as the case may be, must be comprised for the continuation of that hearing of the person or persons who began it.

(3) The First-tier Tribunal, or Upper Tribunal, as the case may be, may give any direction to ensure that proceedings are dealt with fairly and, in particular, may—

- (a) apply any provision in procedural rules which applied to the proceedings before 1st September 2009; or
- (b) disapply provisions of Tribunal Procedure Rules.

(4) In sub-paragraph (3) “procedural rules” means provision (whether called rules or not) regulating practice or procedure before a tribunal.

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(1) 1988 c. 52.  
(2) 1988 c. 53.  
(3) 2000 c. 26.  
(4) S.I. 2007/605.  
(5) S.I. 2007/2781.  
(6) 1999 c. 29.  
(7) 1981 c. 14.  
(8) 1985 c. 67.  
(9) 1995 c. 23.  
(10) 2000 c. 38.  
(11) 2008 c. 26.  
(12) S.I. 1992/3077.  
(13) S.I. 1999/1322.  
(14) S.I. 1999/3413.  
(15) S.I. 2001/3981.

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(5) Any direction or order given or made in proceedings which is in force immediately before 1st September 2009 remains in force on and after that date as if it were a direction or order of the First-tier Tribunal or Upper Tribunal, as the case may be.

(6) A time period which has started to run before 1st September 2009 and which has not expired shall continue to apply.

(7) An order for costs may only be made if, and to the extent that, an order could have been made before 1st September 2009.

**3.** In respect of proceedings referred to in paragraph 1(1) where an appeal lies to a court from any decision made by the Transport Tribunal before 1st September 2009, the right of appeal has not been exercised, and the time to exercise that right of appeal has not expired prior to 1st September 2009, section 11 of the Tribunals, Courts and Enforcement Act 2007 (right to appeal to Upper Tribunal) shall apply as if the decision were a decision made on or after 1st September 2009 by the First-tier Tribunal, and any reference to the Transport Tribunal in enactments relating to such an appeal, express or otherwise, is to be taken as a reference to the First-tier Tribunal.

**4.** In respect of proceedings referred to in paragraph 1(3) where an appeal lies to a court from any decision made by the Transport Tribunal before 1st September 2009, the right of appeal has not been exercised, and the time to exercise that right of appeal has not expired prior to 1st September 2009, section 13 of the Tribunals, Courts and Enforcement Act 2007(**16**) (right to appeal to the Court of Appeal etc) shall apply as if the decision were a decision made on or after 1st September 2009 by the Upper Tribunal, and any reference to the Transport Tribunal in enactments relating to such an appeal, express or otherwise, is to be taken as a reference to the Upper Tribunal.

**5.** Any case to be remitted by a court on or after 1st September 2009 and which, if it had been remitted before 1st September 2009, would have been remitted to the Transport Tribunal or the appeal panel, shall, in the case of proceedings under paragraph 1(1) or (2) be remitted to the First-tier Tribunal, and in all other cases be remitted to the Upper Tribunal.

**6.** Staff appointed to the Transport Tribunal before 1st September 2009 are, in addition, to be treated on and after that date, for the purpose of any proceedings referred to in paragraph 1, as if they had been appointed by the Lord Chancellor under section 40(1) of the Tribunals, Courts and Enforcement Act 2007 (tribunal staff and services).

**7.** In respect of proceedings referred to in paragraph 1, a decision made by the Transport Tribunal or the appeal panel before 1st September 2009 is to be treated as a decision of the First-tier Tribunal or the Upper Tribunal, as the case may be, on or after 1st September 2009.