
STATUTORY INSTRUMENTS

1985 No. 2025(S. 152)

LICENCES AND LICENSING

**The Licensing and Regulation of Taxis (Appeals in Respect of
Taxi Fares) (Scotland) Order 1985**

Made - - - - - 17th December 1985
Coming into Operation 6th January 1986

In exercise of the powers conferred upon me by section 18(6) of the Civic Government (Scotland) Act 1982 (a) and of all other powers enabling me in that behalf and after consultation with the Council on Tribunals in accordance with section 10 of the Tribunals and Inquiries Act 1971 (b), I hereby make the following order:—

Citation and commencement

1. This order may be cited as the Licensing and Regulation of Taxis (Appeals in Respect of Taxi Fares) (Scotland) Order 1985 and shall come into operation on 6th January 1986.

Application of rules

2. The rules set out in the Schedule to this order shall apply to any hearing before the traffic commissioner of an appeal by any person who operates a taxi in an area in respect of which scales for fares or other charges in connection with the hire of taxis have been fixed by the licensing authority, or in respect of which a review of such scales has been carried out.

Interpretation

3. In the Schedule to this order, unless the context otherwise requires—
“the Act” means the Civic Government (Scotland) Act 1982;
“hearing” means a hearing held by the traffic commissioner in relation to an appeal under section 18 of the Civic Government (Scotland) Act 1982;
“licensing authority” means the licensing authority against whose decision an appeal is made;
“the traffic commissioner” means the traffic commissioner for the Scottish Traffic Area as constituted for the purpose of the Public Passenger Vehicles Act 1981 (c);

(a) 1982 c.45; section 18(6) was amended by the Transport Act 1985 (c.67), Schedule 7, paragraph 23(2).
(b) 1971 c.62.
(c) 1981 c.14; section 4 was amended by section 3 of the Transport Act 1985.

“party” means any person who is or would be entitled under rule 4(1) of the rules set out in the Schedule to this order to appear or be represented at a hearing.

George Younger,
One of Her Majesty’s
Principal Secretaries of State.

New St Andrew’s House,
Edinburgh.

17th December 1985.

SCHEDULE

Articles 2 and 3

RULES AS TO PROCEDURE IN RELATION TO APPEALS IN RESPECT OF TAXI FARES AND OTHER CHARGES.

Preliminary information to be notified

1—(1) Subject to paragraph (3) of this rule, every appeal to the traffic commissioner shall be sent in writing, stating the grounds upon which it is made, within the period of 14 days as specified in section 18(1) of the Act.

(2) Where an appeal is notified in accordance with this rule, the appellant shall at the same time send a copy of the appeal to the licensing authority.

(3) Where an appeal has not been made within the 14 day period specified in section 18(1) of the Act, any appeal notified thereafter to the traffic commissioner must be accompanied by an explanation for the delay, together with a statement of reasons why the traffic commissioner should exercise his discretion under section 18(2) of the Act to hear the appeal. The traffic commissioner shall notify the appellant and the licensing authority as soon as possible as to whether or not he has agreed to exercise discretion in favour of the appellant.

Statements to be served before hearing

2.—(1) Within ten days of timeous receipt of a copy of an appeal, or notification of the traffic commissioner’s decision to accept a late appeal, the licensing authority shall send to the traffic commissioner at Edinburgh two copies, and to the appellant one copy, of each of the following documents:—

- (a) the newspaper or newspapers containing the advertisement by the licensing authority made in accordance with section 17(3)(b) of the Act;
- (b) any written representations received by the licensing authority following upon the advertisement;
- (c) all other relevant documents considered by the licensing authority prior to their decision in relation to the scales of taxi fares or other charges;
- (d) a record of the proceedings, if any, in the course of which the licensing authority arrived at their decision; and
- (e) a statement of the reasons for the decision of the licensing authority in relation to the scales of taxi fares and also any observations which the licensing authority propose to put forward in relation to the appeal.

(2) If he is satisfied that there is good reason to do so, the traffic commissioner may extend the time limit specified in paragraph (1) of this rule either before or after the expiry of that time limit.

Notification of hearing

3.—(1) Where the traffic commissioner decides to proceed with a public hearing, he shall, not less than seven days prior to the date of the hearing, give notice of his decision by advertisement in a newspaper circulating in the area of the licensing authority.

(2) Notwithstanding the terms of paragraph (1) of this rule, not less than fourteen days' notice shall be given to both the appellant and the licensing authority inviting them to attend and give evidence at the public hearing, but with the prior agreement of both the appellant and the licensing authority the period of such notice may be reduced.

Appearances at hearing

4.—(1) The persons entitled to appear or be represented at the hearing shall be the appellant and the licensing authority.

(2) Any person authorised by any of the parties to the hearing shall be entitled to appear on behalf of that party whether or not that person is an advocate or a solicitor.

Procedure at hearing

5.—(1) Where two or more appeals are made to the traffic commissioner against the same scales and it appears to him to be convenient that they should be heard together he may conjoin the appeals for hearing and determination.

(2) Except as otherwise provided in these rules, the procedure at a hearing shall be such as the traffic commissioner shall at his discretion determine.

(3) The traffic commissioner may receive oral, documentary or other evidence of any fact which appears to him to be relevant to the appeal, notwithstanding that such evidence would be inadmissible in a court of law.

(4) The parties shall be heard by the traffic commissioner in such order as the traffic commissioner may decide and each party shall be entitled to call witnesses, give evidence on his own behalf and cross-examine any witness called by the other party.

(5) The licensing authority shall be entitled to call as a witness any person whose representations had been taken into account by them in reaching their decision under section 17 of the Act.

(6) If a party does not appear at a hearing, the traffic commissioner, if he is satisfied that the requirements of these rules regarding the giving notice of a hearing have been duly complied with, may proceed to deal with the appeal on the basis of the case put forward in the course of the hearing by any party present and upon the documents and information before him which he may properly consider; and a verbatim record of the proceedings at the hearing shall be taken.

(7) Except with the leave of the traffic commissioner and after consideration by him of any representations to contrary effect which may be made by or on behalf of any party to the hearing, a party shall not be entitled to advance

evidence which was not before the licensing authority when the decision appealed against was made.

(8) The traffic commissioner, of his own accord or on the motion of any party, may from time to time adjourn a hearing and if the date, time and place of the adjourned hearing are announced before the adjournment, and if all parties are present or represented when such an announcement is made, no further notice shall be required.

(9) If the traffic commissioner adjourns a hearing without announcing the date, time and place of the adjourned hearing, or if all the parties are not present or represented when such an announcement is made, notification of the adjourned hearing shall be given in accordance with rule 3 of these rules.

Decisions

6.—(1) The decision of the traffic commissioner in relation to an appeal, together with the reasons for that decision shall be recorded in a document signed by him (or in the event of his absence or incapacity, by a person authorised by him in writing in that behalf).

(2) The traffic commissioner (or in the event of his absence or incapacity, a person authorised by him in that behalf) shall have power, by a certificate under his hand, to correct any clerical or any accidental error or omission in the decision document.

Giving of notices etc.

7. Where any notice or other written matter is required under the provisions of these rules to be given or supplied by the traffic commissioner to the parties, it shall be sufficient compliance with the rules if such notice or matter is sent by post by recorded delivery to the party for whom it is intended at his usual or last known address or, if that party has appointed an agent to act on his behalf in relation to the appeal, to that agent at the address of the agent supplied to the traffic commissioner.

Disposal of appeals

8.—(1) Where the traffic commissioner so resolves he may, with the agreement of the parties intimated to him in writing before the disposal of the appeal, decide an appeal on the basis of written submissions of the parties without oral evidence and in such circumstances these rules (other than rules 3 to 5) shall apply subject to any necessary modifications in relation to any such appeal.

(2) An appeal shall be proceeded with either by way of a public hearing or on the basis of written submissions but not otherwise.

Irregularities

9. Non-compliance with any of these rules shall not render the proceedings on the appeal void unless the traffic commissioner of his own accord or on the motion of any party shall so direct.

EXPLANATORY NOTE

(This note is not part of the order.)

Section 18 of the Civic Government (Scotland) Act 1982 provides a right of appeal by any taxi operator to the traffic commissioner for the Scottish Traffic Area against the scales for fares and other charges for taxis fixed by the licensing authority or any review of the scales. This order makes rules as to the procedure in relation to appeals under that section.

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