

SCHEDULE 1

Consequential provisions – primary legislation

Transport Act 1985

9. In Schedule 4 (constitution, powers and proceedings of the Transport Tribunal)—
- (a) in paragraph 1 after “Tribunal” insert “(referred to in this Schedule as “the tribunal”)”;
 - (b) in paragraph 8(1) omit “Subject to paragraph 9(2) below,”;
 - (c) omit paragraph 9; and
 - (d) after paragraph 16 insert—

“Powers of First-tier Tribunal and Upper Tribunal in relation to transport appeals

17.—(1) The First-tier Tribunal and the Upper Tribunal are to have full jurisdiction to hear and determine all matters (whether of law or of fact) for the purpose of the exercise of any of their functions under an enactment relating to transport.

In the case of the Upper Tribunal, this is subject to sub-paragraph (3).

(2) On an appeal from any determination of a traffic commissioner other than an excluded determination, the Upper Tribunal is to have power—

- (a) to make such order as it thinks fit; or
- (b) to remit the matter to the traffic commissioner for rehearing and determination by the commissioner in any case where the tribunal considers it appropriate;

and any such order is binding on the commissioner.

(3) The Upper Tribunal may not on any such appeal take into consideration any circumstances which did not exist at the time of the determination which is the subject of the appeal.

(4) A determination of a traffic commissioner is an excluded determination for the purposes of this paragraph if it is made under—

- (a) the Goods Vehicles (Community Authorisations) Regulations 1992⁽¹⁾; or
- (b) the Public Service Vehicles (Community Licences) Regulations 1999⁽²⁾.

18. Paragraph 12 applies in relation to the First-tier Tribunal and the Upper Tribunal for the purpose of the exercise of any of their functions under an enactment relating to transport.”.

(1) S.I. 1992/3077.

(2) S.I. 1999/1322.