

บรรณานุกรม



ภาษาไทย

หนังสือ

คณะกรรมการกฤษฎีกา, สำนักงาน. รายงานประจำปี 2527. กรุงเทพมหานคร :  
โรงพิมพ์มหาวิทยาลัยธรรมศาสตร์, 2529.

\_\_\_\_. ครบรอบ 48 ปี พ.ศ. 2524 สำนักงานคณะกรรมการกฤษฎีกา.  
กรุงเทพมหานคร : ห้างหุ้นส่วนจำกัดการพิมพ์พระนคร, 2524.

\_\_\_\_. บันทึกของสำนักงานคณะกรรมการกฤษฎีกา. มีนาคม 2529.

ชานนิตร์ กรัยวิเชียร. คำอธิบายประมวลกฎหมายวิธีพิจารณาความแพ่ง. กรุงเทพ-  
มหานคร : โรงพิมพ์ชวนพิมพ์, 2522.

ประทาน คงอุทธิศึกษากร. "บทบาทของรัฐสภาในการควบคุมการบริหารราชการ."  
ใน อนุสรณ์แด่ พ.ดร.มัลลีย์ หะวานนท์ และ พ.ดร.ชูบ กาญจนประกร  
ที่ระลึกครบ 30 ปี. คณะรัฐประศาสนศาสตร์ สถาบันบัณฑิตพัฒนบริหารศาสตร์.

ประยูร กาญจนกุล. คำบรรยายกฎหมายปกครอง. กรุงเทพมหานคร : คณะนิติศาสตร์  
จุฬาลงกรณ์มหาวิทยาลัย, 2523.

\_\_\_\_. คำบรรยายกฎหมายปกครองเปรียบเทียบ. กรุงเทพมหานคร :  
คณะนิติศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย, 2524.

โกลิน พลกุล. ปัญหาขึ้นสู่ทางกฎหมายมหาชน 2 : คดีปกครองในสร้างเฟส.  
กรุงเทพมหานคร : คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, ม.ป.ป.

\_\_\_\_. เอกสารประกอบการบรรยายวิชาหลักกฎหมายมหาชน. กรุงเทพมหานคร :  
คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, ม.ป.ป.

รองพล เจริญทัศน์. นิติปรัชญา. พิมพ์ครั้งที่ 5. กรุงเทพมหานคร : ห้างหุ้นส่วน  
จำกัด ป. สัมพันธ์พาณิชย์, 2525.

วิชฌ เครื่องาม. กฎหมายรัฐธรรมนูญ. พิมพ์ครั้งที่ 3. กรุงเทพมหานคร :  
โรงพิมพ์แสงสุทธิการพิมพ์, 2530.

สุโขทัยธรรมมาธิราช, มหาวิทยาลัย. เอกสารการสอนชุดวิชากฎหมายมหาชน.  
กรุงเทพมหานคร : บริษัทโรงพิมพ์สามมิตร, 2526.

สุจินต์ หังสุบุตร. นิติรัฐ. พิมพ์ครั้งที่ 1. กรุงเทพมหานคร : สำนักพิมพ์ไรส์, 2523.

สุเมธ จานประคับ. กฎหมายปกครอง. พิมพ์ครั้งที่ 2. กรุงเทพมหานคร :  
โรงพิมพ์มหาวิทยาลัยรามคำแหง, 2525.

หยุด แสงอุทัย. คำบรรยายหลักรัฐธรรมนูญทั่วไป. พิมพ์ครั้งที่ 8. กรุงเทพมหานคร :  
โรงพิมพ์เรือนแก้วการพิมพ์, 2526.

อมร จันทรสมบูรณ์. คำบรรยายกฎหมายปกครอง. พิมพ์ครั้งที่ 9. กรุงเทพมหานคร :  
ห้างหุ้นส่วนจำกัด ป. สัมพันธ์พาณิชย์, 2527.

\_\_\_\_\_. "แนวทางปฏิบัติของสำนักงานคณะกรรมการกฤษฎีกาเกี่ยวกับการคัดเลือกตัว  
บุคคลเพื่อเสนอแต่งตั้งเป็นกรรมการกฤษฎีกา." ใน อนุสรณ์งานพระราชทาน  
เพลิงศพ ขุนประเสริฐสุภมาตรา."

อิสสระ นิติทัณฑ์ประภาศ. กฎหมายปกครองเปรียบเทียบ. พิมพ์ครั้งที่ 1  
กรุงเทพมหานคร : ห้างหุ้นส่วนจำกัดคุรุพิมพ์อักษรกิจ, 2527.

#### บทความวารสาร

กมลชัย รัตนสากววงษ์. "หลักกฎหมายวิธีสบัญญัติในชั้นเจ้าหน้าที่ฝ่ายปกครองของกลุ่ม  
ประเทศ Common Law." วารสารนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์  
15 (ธันวาคม 2528) : 10.



กองประชาสัมพันธ์และฝึกอบรม, กระทรวงมหาดไทย. "การประชุมเพื่อรับฟังข้อคิดเห็น  
ของประชาชนในการวางและจัดทำผังเมืองรวม." ข่าวสารสำนักผังเมือง  
33 (ตุลาคม 2520) : 75.

จิรนิติ หะวานนท์. "การตรวจสอบการกระทำทางปกครองโดยศาลยุติธรรม." บทบัญญัติ  
42 (2529) : 26 - 45.

ชัยวัฒน์ วงศ์วัฒน์. "องค์กรแบบคณะกรรมการ." วารสารกฎหมายปกครอง  
(เมษายน 2526) : 51.

\_\_\_\_\_. "คณะกรรมการ : การปฏิบัติใหม่ที่มีประสิทธิภาพ." วารสารกฎหมาย  
ปกครอง (เมษายน 2526) : 63.

\_\_\_\_\_. "อิสระของข่าวสาร." วารสารนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์  
9 (2521) : 141.

ชำนาญ ยูบูรณ์ และ อาษา เมฆสวรรค์. "การวินิจฉัยสั่งการในการบริหารราชการ." รัฐประศาสนศาสตร์  
6 (กรกฎาคม 2508) : 2.

ประทาน กงฤทธิศึกษากร. "การใช้ระบบคณะกรรมการในการบริหาร." วารสาร  
มหาดไทย 4 (เมษายน - พฤษภาคม 2522) : 110.

ประยูร กาญจนกุล. "นิติรัฐ." รพี ' 26 (2526) : 20.

พระราชบัญญัติกองขนส่งเคราะห์เกษตรกร พ.ศ. 2517." ราชกิจจานุเบกษา  
91 (28 ตุลาคม 2517) : 1 - 15.

พระราชบัญญัติการขนส่งทางบก พ.ศ. 2522." ราชกิจจานุเบกษา 96 (21 มีนาคม  
2522) : 1 - 56.

- "พระราชบัญญัติการฉาบสีกระจกพระราช พ.ศ. 2517." ราชกิจจานุเบกษา 91  
(26 มิถุนายน 2517) : 25 - 52.
- "พระราชบัญญัติการทำงานของคนต่างด้าว พ.ศ. 2521." ราชกิจจานุเบกษา 95  
(21 กรกฎาคม 2521) : 14 - 30.
- "พระราชบัญญัติการท่องเที่ยวแห่งประเทศไทย พ.ศ. 2522." ราชกิจจานุเบกษา  
96 (4 พฤษภาคม 2522) : 1 - 29.
- "พระราชบัญญัติการปฏิรูปที่ดินเพื่อเกษตรกรรม พ.ศ. 2518." ราชกิจจานุเบกษา  
92 (5 มีนาคม 2518) : 10 - 43.
- "พระราชบัญญัติการประกอบอาชีพงานก่อสร้าง พ.ศ. 2522." ราชกิจจานุเบกษา  
96 (16 พฤษภาคม 2522) : 36 - 54.
- "พระราชบัญญัติการปฏิบัติเพื่อความร่วมมือระหว่างประเทศในการดำเนินการตาม  
คำพิพากษาคดีอาญา พ.ศ. 2527." ราชกิจจานุเบกษา 101 (27 กันยายน  
2527) : 1 - 75.
- "พระราชบัญญัติการประมง พ.ศ. 2490." ราชกิจจานุเบกษา 64 (11 มกราคม 2490).
- "พระราชบัญญัติการพิมพ์ พ.ศ. 2484." ราชกิจจานุเบกษา 58 (30 กันยายน 2484).
- "พระราชบัญญัติการหลังงานแห่งชาติ พ.ศ. 2496." ราชกิจจานุเบกษา 70  
(6 มกราคม 2496) : 1.

- "พระราชบัญญัติใช้จับสั้น พ.ศ. 2485." ราชกิจจานุเบกษา
- "พระราชบัญญัติควบคุมการเรียไร พ.ศ. 2487." ราชกิจจานุเบกษา 61 (18 มกราคม 2487) :
- "พระราชบัญญัติคณะกรรมการกฤษฎีกา พ.ศ. 2522." ราชกิจจานุเบกษา
- "พระราชบัญญัติคณะกรรมการประดมศึกษา พ.ศ. 2523." ราชกิจจานุเบกษา 97 (13 ตุลาคม 2523) : 4 - 21.
- "พระราชบัญญัติคนเข้าเมือง พ.ศ. 2522." ราชกิจจานุเบกษา 96 (1 มีนาคม 2522) : 45 - 92.
- "พระราชบัญญัติควบคุมการขายทอดตลาดและค้าของเก่า พ.ศ. 2474." ราชกิจจานุเบกษา (15 พฤษภาคม 2474) :
- "พระราชบัญญัติควบคุมการเช่าเคหะและที่ดิน พ.ศ. 2504." ราชกิจจานุเบกษา 78 (11 ตุลาคม 2504) :
- "พระราชบัญญัติควบคุมบำบัดโรคสัตว์ พ.ศ. 2505." ราชกิจจานุเบกษา 79 (27 พฤศจิกายน 2505) : 1229 - 1242.
- "พระราชบัญญัติควบคุมการประกอบโรคศิลปะ พ.ศ. 2479." ราชกิจจานุเบกษา 54 (26 เมษายน 2480) .
- "พระราชบัญญัติควบคุมคุณภาพอาหารสัตว์ พ.ศ. 2525." ราชกิจจานุเบกษา 99 (11 สิงหาคม 2525) : 25 - 52.



- "พระราชบัญญัติควบคุมยาง พ.ศ. 2481." ราชกิจจานุเบกษา 55 (13 มกราคม 2480).
- "พระราชบัญญัติควบคุมยุทธภัณฑ์ พ.ศ. 2476." ราชกิจจานุเบกษา (26 พฤศจิกายน 2476) :
- "พระราชบัญญัติควบคุมแร่ดีบุก พ.ศ. 2514." ราชกิจจานุเบกษา 88 (1 สิงหาคม 2514) : 1 - 12.
- "พระราชบัญญัติควบคุมอาคาร พ.ศ. 2522." ราชกิจจานุเบกษา 96 ( 14 พฤษภาคม 2522) : 1 - 43.
- "พระราชบัญญัติเครื่องหมายการค้า (ฉบับที่ 3) พ.ศ. 2504." ราชกิจจานุเบกษา 78 (3 ตุลาคม 2504) : 1084 - 1094.
- "พระราชบัญญัติเครื่องสำอาง พ.ศ. 2517." ราชกิจจานุเบกษา 91 (18 กันยายน 2517) : 55 - 76.
- "พระราชบัญญัติคุ้มครองผู้บริโภค พ.ศ. 2522." ราชกิจจานุเบกษา 96 (4 พฤษภาคม 2522) .
- "พระราชบัญญัติจัดการฝึกและอบรมเด็กบางจำพวก พ.ศ. 2479." ราชกิจจานุเบกษา 54 (26 เมษายน 2480) .
- "พระราชบัญญัติจดทะเบียนเครื่องจักร พ.ศ. 2514." ราชกิจจานุเบกษา 88 (27 เมษายน 2514) : 246 - 255.
- "พระราชบัญญัติจัดระเบียบกิจการแพปลา พ.ศ. 2496." ราชกิจจานุเบกษา 70 (20 มกราคม 2496) : 120.
- "พระราชบัญญัติจัดระเบียบบริหารหมู่บ้านอาสาพัฒนาและป้องกันตนเอง พ.ศ. 2522." ราชกิจจานุเบกษา 96 (10 พฤษภาคม 2522) : 18 - 35.

"พระราชบัญญัติจัดรูปที่ดินเพื่อเกษตรกรรม พ.ศ. 2517." ราชกิจจานุเบกษา  
91 (18 กันยายน 2517) : 1 - 35.

"พระราชบัญญัติจกวางการรถไฟและทางหลวง พ.ศ. 2464." ราชกิจจานุเบกษา

"พระราชบัญญัติจัดหางานและคุ้มครองคนหางาน พ.ศ. 2511." ราชกิจจานุเบกษา  
85 (30 เมษายน 2511) : 213 - 224.

"พระราชบัญญัติเชื้อโรคและพิษที่มาจากสัตว์น้ำ พ.ศ. 2525." ราชกิจจานุเบกษา  
99 (16 สิงหาคม 2525) : 5 - 17.

"พระราชบัญญัติการเช่าที่ดินเพื่อเกษตรกรรม พ.ศ. 2524." ราชกิจจานุเบกษา 98  
(14 สิงหาคม 2524) : 16 - 51.

"พระราชบัญญัติทะเบียนพาณิชย์ พ.ศ. 2499." ราชกิจจานุเบกษา 73 (7 กุมภาพันธ์  
2499) .

"พระราชบัญญัติเทศบาล พ.ศ. 2496." ราชกิจจานุเบกษา 14 (ม.ป.ป.) : 1487.

"พระราชบัญญัติโทรเลขและโทรศัพท์ พ.ศ. 2477." ราชกิจจานุเบกษา 51  
(28 ตุลาคม 2477) .

"พระราชบัญญัติน้ำบาดาล พ.ศ. 2520." ราชกิจจานุเบกษา 94 (28 กรกฎาคม  
2520) : 8 - 28.

"พระราชบัญญัติวันขึ้นปีใหม่ พ.ศ. 2521." ราชกิจจานุเบกษา 95 (11 พฤษภาคม  
2521) : 1 - 12.

"พระราชบัญญัติโบราณสถาน โบราณวัตถุ ศิลปวัตถุ และพิพิธภัณฑสถานแห่งชาติ พ.ศ. 2504." ราชกิจจานุเบกษา 78 (29 สิงหาคม 2504) : 980 - 998.

- "พระราชบัญญัติป้องกันและระงับอัคคีภัย พ.ศ. 2495." ราชกิจจานุเบกษา 69  
(2 กันยายน 2495) : 995.
- "พระราชบัญญัติประกันสังคม พ.ศ. 2497." ราชกิจจานุเบกษา 71 (9 กุมภาพันธ์  
2497) : 122.
- "พระราชบัญญัติป่าสงวนแห่งชาติ พ.ศ. 2507." ราชกิจจานุเบกษา 81 (28  
เมษายน 2507) : 263 - 281.
- "พระราชบัญญัติปิโตรเลียม พ.ศ. 2514." ราชกิจจานุเบกษา 88 (23 เมษายน  
2514) : 1 - 12.
- "พระราชบัญญัติปุ๋ย พ.ศ. 2518." ราชกิจจานุเบกษา 92 (9 มกราคม 2518) :  
29 - 70.
- "พระราชบัญญัติขึ้นส่วนน้ำมันเชื้อเพลิง พ.ศ. 2483." ราชกิจจานุเบกษา 57  
4 ตุลาคม 2483) :
- "พระราชบัญญัติป้องกันการห่มตลาด พ.ศ. 2507." ราชกิจจานุเบกษา 89 (15  
กันยายน 2527) : 623 - 631.
- "พระราชบัญญัติป้องกันและปราบปรามการทุจริตและประพฤติมิชอบในวงราชการ พ.ศ.  
2518." ราชกิจจานุเบกษา 92 (3 มีนาคม 2518) : 1 - 13.
- "พระราชบัญญัติผู้สอบบัญชี พ.ศ. 2505." ราชกิจจานุเบกษา 79 (1 พฤศจิกายน  
2505) : 1 - 12.
- "พระราชบัญญัติผังเมือง พ.ศ. 2518." ราชกิจจานุเบกษา 92 (13 กุมภาพันธ์  
2518) : 8 - 66.
- "พระราชบัญญัติพันธุ์พืช พ.ศ. 2518." ราชกิจจานุเบกษา 92 (19 กุมภาพันธ์  
2518) : 5 - 36.



- "พระราชบัญญัติภาษีบำรุงท้องที่ พ.ศ. 2508." ราชกิจจานุเบกษา 82  
(1 พฤศจิกายน 2508) : 6 - 35.
- "พระราชบัญญัติภาษีป้าย พ.ศ. 2510." ราชกิจจานุเบกษา 82 (23 พฤศจิกายน 2510) : 6 - 25.
- "พระราชบัญญัติภาษีไม้ซีกไฟซึ่งทำในราชอาณาจักร พ.ศ. 2508." ราชกิจจานุเบกษา  
82 (7 กันยายน 2508) :
- "พระราชบัญญัติภาษีโรงเรือนและที่ดิน พ.ศ. 2475." ราชกิจจานุเบกษา
- "พระราชบัญญัติมาตรฐานผลิตภัณฑ์อุตสาหกรรม พ.ศ. 2511." ราชกิจจานุเบกษา  
85 (31 ธันวาคม 2511) : 1023 - 1046.
- "พระราชบัญญัติมาตรฐานสินค้าขาออก พ.ศ. 2503." ราชกิจจานุเบกษา 77  
(9 สิงหาคม ม.ป.ป.) : 522 -
- "พระราชบัญญัติมาตรการขัง ทวง วัด พระพุทธศักราช 2466." ราชกิจจานุเบกษา  
(27 ธันวาคม 2466) .
- "พระราชบัญญัติยา พ.ศ. 2510." ราชกิจจานุเบกษา 84 (20 ตุลาคม 2510) :  
7 - 65.
- "พระราชบัญญัติยาสูบ พ.ศ. 2504." ราชกิจจานุเบกษา 83 (27 ธันวาคม 2509)  
: 963 - 986.
- "พระราชบัญญัติยาเสพติดให้โทษ พ.ศ. 2522." ราชกิจจานุเบกษา 96  
(27 เมษายน 2522) : 40 - 82.
- "พระราชบัญญัติรถยนต์ พ.ศ. 2522." ราชกิจจานุเบกษา 96 (12 พฤษภาคม 2522).  
: 22 - 51.

"พระราชบัญญัติระเบียบบริหารราชการกรุงเทพมหานคร พ.ศ. 2528."

ราชกิจจานุเบกษา

"พระราชบัญญัติระเบียบข้าราชการครู พ.ศ. 2523." ราชกิจจานุเบกษา 97

(13 กุมภาพันธ์ 2523) : 37 - 73.

"พระราชบัญญัติระเบียบข้าราชการตำรวจ พ.ศ. 2521." ราชกิจจานุเบกษา 95

(22 มิถุนายน 2521) .

"พระราชบัญญัติระเบียบข้าราชการฝ่ายตุลาการ พ.ศ. 2521." ราชกิจจานุเบกษา

95 (31 พฤษภาคม 2521) : 42 - 75.

"พระราชบัญญัติระเบียบข้าราชการฝ่ายอัยการ พ.ศ. 2521." ราชกิจจานุเบกษา

95 (พฤษภาคม 2521) : 42 - 75. .

"พระราชบัญญัติระเบียบข้าราชการพลเรือน พ.ศ. 2518." ราชกิจจานุเบกษา

92 (6 กุมภาพันธ์ 2518) : 1 - 77.

"พระราชบัญญัติระเบียบข้าราชการฝ่ายรัฐสภา พ.ศ. 2518." ราชกิจจานุเบกษา

92 (6 กุมภาพันธ์ 2518) : 1 - 60.

"พระราชบัญญัติระเบียบข้าราชการฝ่ายพลเรือนในมหาวิทยาลัย พ.ศ. 2507."

ราชกิจจานุเบกษา

"พระราชบัญญัติแร่ พ.ศ. 2510." ราชกิจจานุเบกษา 84 (31 ธันวาคม 2510) :

1 - 69.

"พระราชบัญญัติแรงงานสัมพันธ์ พ.ศ. 2518." ราชกิจจานุเบกษา 92

(26 กุมภาพันธ์ 2518) : 1 - 80.

"พระราชบัญญัติโรงงาน พ.ศ. 2512." ราชกิจจานุเบกษา 86 (6 มีนาคม 2512) :

58 - 87.

- "พระราชบัญญัติโรคระบาดสัตว์ พ.ศ. 2499." ราชกิจจานุเบกษา 73  
(2 ตุลาคม 2499) .
- "พระราชบัญญัติโรงเรียนเอกชน พ.ศ. 2525." ราชกิจจานุเบกษา 99  
(19 สิงหาคม 2525) : 1 - 47.
- "พระราชบัญญัติโรงแรม พ.ศ. 2478." ราชกิจจานุเบกษา 52 (13 ตุลาคม 2478)
- "พระราชบัญญัติโรงเรียนรับจำนำ พ.ศ. 2505." ราชกิจจานุเบกษา 79 (31 ธันวาคม  
2505) : 4 - 21.
- "พระราชบัญญัติวิชาชีพวิศวกรรม พ.ศ. 2505." ราชกิจจานุเบกษา 79  
(27 กรกฎาคม 2505) : 9 - 23.
- "พระราชบัญญัติวิชาชีพเวชกรรม พ.ศ. 2525." ราชกิจจานุเบกษา 99  
(11 สิงหาคม 2525) : 1 - 24.
- "พระราชบัญญัติวิชาชีพสถาปัตยกรรม พ.ศ. 2508." ราชกิจจานุเบกษา 82  
(31 ธันวาคม 2508) : 16 - 30.
- "พระราชบัญญัติว่าด้วยการกำหนดและเก็บหนังสือ พ.ศ. 2471." ราชกิจจานุเบกษา  
(13 พฤษภาคม 2471) .
- "พระราชบัญญัติว่าด้วยวินัยตำรวจ พ.ศ. 2477." ราชกิจจานุเบกษา 51  
(14 ตุลาคม 2477) .
- "พระราชบัญญัติวัดดุมิพิษ พ.ศ. 2510." ราชกิจจานุเบกษา 84 (7 มีนาคม 2510)  
: 118 - 136.
- "พระราชบัญญัติวัตถุที่ออกฤทธิ์ต่อจิตและประสาท พ.ศ. 2518." ราชกิจจานุเบกษา  
92 (9 มกราคม 2518) : 86 - 142.



- "พระราชบัญญัติวินัยกองอาสารักษากินแทน พ.ศ. 2509." ราชกิจจานุเบกษา  
83 (27 กันยายน 2509) : 6.5 - 617.
- "พระราชบัญญัติวิทยุกระจายเสียงและวิทยุโทรทัศน์ พ.ศ. 2498." ราชกิจจานุเบกษา  
72 (8 กุมภาพันธ์ 2498) : 237.
- "พระราชบัญญัติวิทยุคมนาคม พ.ศ. 2498." ราชกิจจานุเบกษา 72 (8 กุมภาพันธ์  
2498) : 208.
- "พระราชบัญญัติส่งเสริมและรักษาคุณภาพสิ่งแวดล้อมแห่งชาติ พ.ศ. 2518."  
ราชกิจจานุเบกษา 92 (19 กุมภาพันธ์ 2518) : 39 - 47.
- "พระราชบัญญัติสถานพยาบาล พ.ศ. 2504." ราชกิจจานุเบกษา 78 (17 ตุลาคม  
2504) : 1122 - 1138.
- "พระราชบัญญัติสถานบริการ พ.ศ. 2509." ราชกิจจานุเบกษา 83 (4 ตุลาคม  
2509) : 626 - 639.
- "พระราชบัญญัติสถาบันวิจัยวิทยาศาสตร์และเทคโนโลยีแห่งประเทศไทย พ.ศ. 2522."  
ราชกิจจานุเบกษา 96 (23 มีนาคม 2522) : 35 - 60.
- "พระราชบัญญัติสิทธิบัตร พ.ศ. 2522." ราชกิจจานุเบกษา 96 (16 มีนาคม 2522) :  
1 - 40.
- "พระราชบัญญัติสาธารณสุข พุทธศักราช 2484." ราชกิจจานุเบกษา 58 (30 ธันวาคม  
2484) .
- "พระราชบัญญัติสมาคมการค้า พ.ศ. 2509." ราชกิจจานุเบกษา 83 (26 เมษายน  
2509) : 317 - 345.
- "พระราชบัญญัติสหกรณ์ พ.ศ. 2511." ราชกิจจานุเบกษา 85 (19 มิถุนายน 2511)  
: 1 - 54.

"พระราชบัญญัติหอการค้า พ.ศ. 2509." ราชกิจจานุเบกษา 83 (26 เมษายน 2509) : 317 - 345.

"พระราชบัญญัติสถาบันอุดมศึกษาเอกชน พ.ศ. 2522." ราชกิจจานุเบกษา 96 (27 เมษายน 2522) : 1 - 39.

"พระราชบัญญัติองค์การเภสัชกรรม พ.ศ. 2509." ราชกิจจานุเบกษา 83 (11 สิงหาคม 2509) : 1 - 16.

"พระราชบัญญัติอาคารชุด พ.ศ. 2522." ราชกิจจานุเบกษา 96 (30 เมษายน 2522) : 29 - 54.

"พระราชบัญญัติอาหาร พ.ศ. 2522." ราชกิจจานุเบกษา 96 (13 พฤษภาคม 2522).

"พระราชบัญญัติอ้อยและน้ำตาลทราย พ.ศ. 2527." ราชกิจจานุเบกษา 101 (8 สิงหาคม 2527) : 40.

โกศล พลกุล. "รูปแบบและวิธีการควบคุมฝ่ายปกครอง." วารสารนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์ 12 (2524) : 58.

วิชัย วิวิตเสวี. "ผู้พิพากษาฎีกาหมายปกครอง." วารสารกฎหมาย 8 (ตุลาคม 2526) : 24.

วุฒิชัย จำนงค์. "พฤติกรรมการตัดสินใจ : การพิจารณาขอขยายทางทฤษฎี." วารสารพัฒนบริหารศาสตร์ 18 (2521) : 193 - 211.

สมพล วัฒนกันธร์. "การใช้อำนาจนิติบัญญัติขององค์กรบริหาร." รัฐสภาสาร 30 (ตุลาคม 2525) : 69.

สมศักดิ์ ฟูระชัยุเดช. "การอุทธรณ์และการร้องทุกข์." วารสารข้าราชการ 25 (เมษายน 2523) : 135 - 136.



สุรเกียรติ์ เสถียรไทย. "รูปลักษณะของโครงสร้างและกลไกของกฎหมายไทย."

วารสารกฎหมาย 10 (กรกฎาคม - พฤศจิกายน 2529) : 230.

เอกสารอื่น ๆ

กาญจนรัตน์ ลีวิโรจน์. "การร่างกฎหมาย" วิทยานิพนธ์ปริญญาโทบัณฑิต  
ภาคศึกษานิติศาสตร์ บัณฑิตวิทยาลัย จุฬาลงกรณ์มหาวิทยาลัย, 2523.

ชัยวัฒน์ วงศ์วัฒน์. "การควบคุมการกระทำของฝ่ายปกครอง." เอกสาร  
ประกอบการสัมมนาหลักกฎหมายปกครอง ณ ห้องประชุม ชั้น 3 คณะนิติศาสตร์  
มหาวิทยาลัยรามคำแหง 23 - 24 กรกฎาคม 2527. (อัดสำเนา)

\_\_\_\_\_. "นิติกรรมทางปกครองในกฎหมายอังกฤษ." เอกสารประกอบโครงการ  
ฝึกอบรมนิติกร หลักสูตร หลักกฎหมายปกครอง : วิธีสัมมนา ณ ห้องประชุมใหญ่  
สำนักงานคณะกรรมการกฤษฎีกา 5 - 7 กุมภาพันธ์ 2529. (อัดสำเนา)

ธีระเดช ยุวชิต. "การควบคุมฝ่ายปกครองโดยศาลเฉพาะกิจตามพระราชบัญญัติใน  
ประเทศอังกฤษ." วิทยานิพนธ์ปริญญาโทบัณฑิต ภาคศึกษานิติศาสตร์  
มหาวิทยาลัยธรรมศาสตร์, 2524.

ศไพชิต เอกจริยกร. "เอกสิทธิ์และความคุ้มกันของฝ่ายปกครองในประเทศไทย"  
วิทยานิพนธ์ปริญญาโทบัณฑิต คณะนิติศาสตร์ มหาวิทยาลัยธรรมศาสตร์, 2526.

สุนศักดิ์ ไวสารวจ. "นิติกรรมฝ่ายเดียวทางปกครองในกฎหมายฝรั่งเศส."  
เอกสารประกอบโครงการฝึกอบรมหลักสูตรหลักกฎหมายปกครองเบื้องต้น  
ณ ห้องประชุมใหญ่ สำนักงานคณะกรรมการกฤษฎีกา 5 - 7 กุมภาพันธ์  
2529. (อัดสำเนา)

โกกีน พลกุล. "การวินิจฉัยชี้ขาดคดีปกครอง." เอกสารประกอบโครงการฝึกอบรม  
นิติกรหลักสูตร หลักกฎหมายปกครอง : วิธีสัมมนา ณ ห้องประชุมใหญ่  
สำนักงานคณะกรรมการกฤษฎีกา 26 - 27 สิงหาคม 2530. (อัดสำเนา)



วิชัย วิวิตเสวี. "อำนาจศาลในการวินิจฉัยข้อพิพาท." เอกสารประกอบการ  
สัมมนาหลักกฎหมายปกครอง ณ ห้องประชุม ชั้น 3 คณะนิติศาสตร์  
มหาวิทยาลัยรามคำแหง 23 - 24 กรกฎาคม 2527. (อัครสำเนา)

สมยศ เชื้อไทย และวราภรณ์ วิฬรุตติชัย. แนวความคิดพื้นฐานเกี่ยวกับรัฐธรรมนูญ  
และประชาธิปไตย." เอกสารประกอบการสัมมนาทางวิชาการเรื่อง  
ปัญหารัฐธรรมนูญและสถาบันการเมืองสภาวการณ์ปัจจุบัน ณ มหาวิทยาลัย  
ธรรมศาสตร์ 10 - 11 สิงหาคม 2527. (อัครสำเนา)

### ภาษาอังกฤษ

#### Books

Auby, J.M. and Drago, R. Traite de Contentieux Administratif.

Paris : Librairie Générale de Droit et de Jurisprudence,  
1975.

Braibant, Guy ; Questiaux, Nicole and Wiener, Celine.

Le Contrôle de l'Administration et la Protection des  
Citoyens. n.p., n.d.

Chaudet, Jean - Pierre. Les Principes Généraux de la Procédure  
Administrative Contentieuse. Paris : Librairie Generale  
de droit et de Jurisprudence,

Dicey, A.V. Introduction to the Study of the Law of Constitution.  
10 th ed. London : Macmillan, 1959.

E. Cooper, Frank. State Administrative Law. U.S.A. : The Bobbs -  
Merril Company Inc, 1965.

Foulkes, David. Administrative Law. 5th ed. London : Butterworth,  
1982.

- Garner, J.F. Administrative Law. 9 th ed. London : Butterworth,  
1974.
- Gellhorn, Ernest and B. Boyer, Barrey. Administrative Law and  
Process in a Nutshell. U.S.A. : Library of Congress  
Cataloging in Publication Data, 1977.
- \_\_\_\_\_. Administrative law and Process in a Nutshell. U.S.A. :  
Library of Congress Cataloging in Publication Data, 1977.
- Graig, P.P. Administrative Law. London : Sweet & Maxwell, 1983.
- Laubadere, Andre de. Traite E.lementaire de Droit Administratif  
Paris : Librairie Générale de Droit de Jurisprudence,  
1970.
- Neville Brown, L. French Administrative Law. London : Butterworths,  
1973.
- Rivero, Jean. Droit Administratif. Paris : Dallos, 1983.
- Schwartz, Bernard, and Wade, H. W.R. Legal Control of Government.  
2 d ed. Oxford : Clarendon , 1972.
- \_\_\_\_\_. An Introduction to American Administrative Law.  
London : Oceana Publications. Inc, 1958.
- \_\_\_\_\_. French Administrative Law and the Common Law World.  
New York : New York University Press, 1954.
- Wade, H.W.R. Administrative Law. Oxford : Clarendon Press, 1982.

Wraith, R. E. and Lamb, G.B. Public Inquiries as an Instrument of Government. London : George Allen & Unwin Ltd., 1971.

#### Articles

A Flick, Geoffrey. "Administrative Adjudications and the duty to give Reasons - A Search for Criteria." Public Law (1978) : 17 - 18.

Bockelman, Paul. "The Principles of the Rule of Law." Law and State 4 : 97.

De Smith, S.A. "The Right to a Hearing in English Administrative Law." Harvard Law Review 68 (January 1955) : 571 - 572.

Garner, J.F. "Consultation in Subordinate Legislation." Public Law (1964) : 109.

Jegesen, Allan D. "The Legal Requirement of Consultation." Public Law (1978) : 297.

K. Allen, David. "Audi Alteram Partem in France." Public Law (1980) : 289.

#### Other Materials

Levin, P.H. "On decision and decision making." Public Administrative Journal of the Royal Institute of Public Administrative, Spring 1972.

Mackenzie, W.J.M. "Committees in Administration." Journal of the Institute of Public Administration XXI, Autumn 1953.



การคำนวณ

# THE TRIBUNALS AND INQUIRIES ACT 1971

(1971 c. 62)

## ARRANGEMENT OF SECTIONS

### *The Council on Tribunals and its functions*

<b>Section</b>	
1.	Council on Tribunals .. .. .
2.	Composition of the Council and the Scottish Committee .. .. .
3.	Tenure of office, remuneration and expenses .. .. .
4.	Reports of, and references to, Council and Scottish Committee .. .. .
5.	Recommendations of Council as to appointment of members of tribunals .. .. .
6.	Right of Council member to attend hearings under Part X of Local Government Act 1933 .. .. .

### *Composition and procedure of tribunals and inquiries*

7.	Chairmen etc. of certain tribunals: provisions as to appointment .. .. .
8.	Concurrence required for removal of members of certain tribunals .. .. .
9.	Legal qualifications for certain tribunals .. .. .
10.	Procedural rules for tribunals .. .. .
11.	Procedure in connection with statutory inquiries .. .. .
12.	Reasons to be given for decisions of tribunals and Ministers .. .. .

### *Judicial control of tribunals etc.*

13.	Appeals from certain tribunals .. .. .
14.	Extension of supervisory powers of superior courts .. .. .

### *Supplementary provisions*

15.	Power to apply Act to additional tribunals and to repeal or amend certain provisions .. .. .
16.	Rules and orders .. .. .
17.	Transitory provisions .. .. .
18.	Consequential amendments, repeals and savings .. .. .
19.	Interpretation .. .. .
20.	Short title, commencement and extent .. .. .

#### SCHEDULES:

Schedule 1—	Tribunals under general supervision of Council .. .. .
Schedule 2—	Transitory provisions .. .. .
Schedule 3—	Consequential amendments .. .. .
Schedule 4—	Repeals and revocations .. .. .

*An Act to consolidate the Tribunals and Inquiries Acts 1958 and 1966 as amended*  
[27th July 1971]

### *The Council on Tribunals and its functions*

#### 1. Council on Tribunals

(1) There shall continue to be a council entitled the Council on Tribunals (being the council constituted by the Tribunals and Inquiries Act 1958)—

- (a) to keep under review the constitution and working of the tribunals specified in Schedule 1 to this Act (being the tribunals constituted under or for the purposes of the statutory provisions specified in that Schedule) and, from time to time, to report on their constitution and working;
- (b) to consider and report on such particular matters as may be referred to the Council under this Act with respect to tribunals other than the ordinary courts of law, whether or not specified in Schedule 1 to this Act, or any such tribunal;
- (c) to consider and report on such matters as may be referred as aforesaid, or as the Council may determine to be of special importance, with respect to administrative procedures involving, or which may involve, the holding by or on behalf of a Minister of a statutory inquiry, or any such procedure.

(2) Nothing in this section shall authorise or require the Council to deal with any matter with respect to which the Parliament of Northern Ireland has power to make laws.





## 2. Composition of the Council and the Scottish Committee

(1) Subject to subsection (3) of this section the Council on Tribunals (in this Act referred to as "the Council") shall consist of not more than fifteen nor less than ten members appointed by the Lord Chancellor and the Secretary of State, and one of the members shall be so appointed to be chairman of the Council.

(2) There shall be a Scottish Committee of the Council (in this Act referred to as "the Scottish Committee") which, subject to subsection (3) of this section, shall consist of—

(a) either two or three members of the Council designated by the Secretary of State; and

(b) either three or four persons, not being members of the Council, appointed by the Secretary of State;

and the Secretary of State shall appoint one of the members of the Scottish Committee (being a member of the Council) to be chairman of the Scottish Committee.

(3) In addition to the persons appointed or designated as aforesaid, the Parliamentary Commissioner for Administration shall, by virtue of his office, be a member of the Council and of the Scottish Committee.

(4) In appointing members of the Council regard shall be had to the need for representation of the interests of persons in Wales.

## 3. Tenure of office, remuneration and expenses

(1) Persons appointed under section 2 of this Act shall hold and vacate office under the terms of the instruments under which they are appointed, but may resign office by notice in writing to the Minister or Ministers by whom they were appointed; and any such person who ceases to hold office shall be eligible for re-appointment.

(2) There shall be paid to the chairman of the Council and the chairman of the Scottish Committee such salaries, and to the other members of the Council and of the Scottish Committee such fees (if any) as may be determined by the Treasury.

(3) The salaries and fees payable under subsection (2) of this section, together with such expenses of the Council and of the Scottish Committee (including subsistence allowances for and travelling expenses of their members) as may be approved by the Treasury shall be defrayed out of moneys provided by Parliament.

## 4. Reports of, and references to, Council and Scottish Committee

(1) Subject to the provisions of this section, any report by, or reference to, the Council shall be made to, or as the case may be by, the Lord Chancellor and the Secretary of State.

(2) A reference to the Council of a matter relating only to England and Wales may be made by the Lord Chancellor, and a reference to the Council of a matter relating only to Scotland may be made by the Secretary of State; and the report of the Council on a reference so made shall be made to the Minister making the reference.

(3) The Council shall not make a report on any such tribunal as is specified in Part II of Schedule 1 to this Act, or on any matter referred to the Council by the Secretary of State, until the Council have referred the matter of the report for consideration, and report to the Council, by the Scottish Committee and have considered the report of that Committee.

(4) Where, without any reference having been made to them, the Council report on any such matter as is mentioned in section 1 (1) (c) of this Act, then—

(a) if the matter relates only to England and Wales, subsection (2) of this section shall apply as if the matter had been referred to the Council by the Lord Chancellor;

(b) if the matter relates only to Scotland, subsections (2) and (3) of this section shall apply as if the matter had been referred to them by the Secretary of State.



(5) The Scottish Committee may of its own motion make a report to the Council with respect to the constitution or working of any such tribunal as is specified in Part II of Schedule 1 to this Act or with respect to any matter falling within section 1 (1) (c) of this Act and relating only to Scotland.

(6) If the Council, in reporting on any matter which they have referred to the Scottish Committee or on which that Committee has reported to the Council of its own motion, do not adopt the report of that Committee without modification, or if the Council do not make a report on matters on which the Scottish Committee has reported to the Council of its own motion, the Scottish Committee may submit its report to the Secretary of State.

(7) The Council shall make an annual report to the Lord Chancellor and the Secretary of State on their proceedings and those of the Scottish Committee, and the Lord Chancellor and the Secretary of State shall lay the annual report before Parliament with such comments (if any) as they think fit.

#### **5. Recommendations of Council as to appointment of members of tribunals**

(1) Without prejudice to the generality of section 1 (1) (a) of this Act, the Council may make to the appropriate Minister general recommendations as to the making of appointments to membership of any such tribunals as are specified in Schedule 1 to this Act or of panels constituted for the purposes of any such tribunals; and (without prejudice, however, to any statutory provisions having effect with respect to such appointments) the appropriate Minister shall have regard to recommendations under this section.

(2) In this section "the appropriate Minister" means, in relation to appointments of any description, the Minister making the appointments or, if they are not made by a Minister, the Minister in charge of the government department concerned with the tribunals in question.

(3) The following provisions shall have effect as respects any such tribunal as is specified in Part II of Schedule 1 to this Act—

- (a) the Council shall not make any such recommendations as aforesaid until they have referred the matter of the recommendations for consideration, and report to the Council, by the Scottish Committee and have considered the report of that Committee;
- (b) without prejudice to the generality of section 4 (5) of this Act, the Scottish Committee may of its own motion propose any such general recommendations as aforesaid as expedient to be made by the Council to the appropriate Minister;
- (c) if the Council, in making recommendations under this section on any matter which they have referred to the Scottish Committee or on which that Committee has made proposals, do not adopt the report or proposals of that Committee without modification, or if the Council do not make recommendations on matters on which the Scottish Committee has made proposals to the Council, the Scottish Committee may submit its report or proposals to the Secretary of State.

#### **6. Right of Council member to attend hearings under Part X of Local Government Act 1933**

A member of the Council, in his capacity as such, may attend any hearing conducted under section 231 (2) of the Local Government Act 1933 (procedure on appeal or application to the Secretary of State in respect of district audit).

*Composition and procedure of tribunals and inquiries*

**7. Chairmen etc. of certain tribunals: provisions as to appointment**

(1) The chairman, or any person appointed to act as chairman, of any of the tribunals to which this subsection applies shall (without prejudice to any statutory provisions as to qualifications) be selected by the appropriate authority from a panel of persons appointed by the Lord Chancellor.

(2) Members of panels constituted under this section shall hold and vacate office under the terms of the instruments under which they are appointed, but may resign office by notice in writing to the Lord Chancellor; and any such member who ceases to hold office shall be eligible for re-appointment.

(3) Subsection (1) of this section applies to any such tribunal as is specified in paragraph 18 (b) or (c), 19 (a), (b) or (e), 20 or 28 (a) of Schedule 1 to this Act, but, in relation to any such tribunal as is specified in paragraph 28 (a) of that Schedule, this section shall have effect subject to paragraph 3 (3) of Schedule 10 to the Rent Act 1968.

(4) The person or persons constituting any such tribunal as is specified in paragraph 16 of Schedule 1 to this Act shall be appointed by the Lord Chancellor, and where such a tribunal consists of more than one person the Lord Chancellor shall designate which of them is to be the chairman.

(5) In this section "the appropriate authority" means the Minister who apart from this Act would be empowered to appoint or select the chairman, person to act as chairman, members or member of the tribunal in question.

(6) A panel may be constituted under this section for the purposes either of a single tribunal or of two or more tribunals, whether or not of the same description.

(7) (*Applies to Scotland.*)

(8) In relation to any of the tribunals referred to in the foregoing provisions of this section which sits in Northern Ireland, this section shall have effect with the substitution for any reference to the Lord Chancellor of a reference to the Lord Chief Justice of Northern Ireland.

**8. Concurrence required for removal of members of certain tribunals**

(1) Subject to subsection (2) of this section, no power of a Minister other than the Lord Chancellor to terminate a person's membership of any such tribunal as is specified in Schedule 1 to this Act, or of a panel constituted for the purposes of any such tribunal, shall be exercisable except with the consent of—

- (a) the Lord Chancellor, the Lord President of the Court of Session and the Lord Chief Justice of Northern Ireland, if the tribunal sits in all parts of the United Kingdom;
- (b) the Lord Chancellor and the Lord President of the Court of Session, if the tribunal sits in all parts of Great Britain;
- (c) the Lord Chancellor and the Lord Chief Justice of Northern Ireland, if the tribunal sits both in England and Wales and in Northern Ireland;
- (d) the Lord Chancellor, if the tribunal does not sit outside England and Wales;
- (e) the Lord President of the Court of Session, if the tribunal sits only in Scotland;
- (f) the Lord Chief Justice of Northern Ireland, if the tribunal sits only in Northern Ireland.

(2) This section does not apply to any such tribunal as is specified in paragraph 17 (a), 22, 25 (a), 29 (b), 30, 35 or 41 (a) of Schedule 1 to this Act.

(3) For the purposes of this section in its application to any such tribunal as is specified in paragraph 8 (a) of Schedule 1 to this Act, an adjudicator who has sat only in England or Wales or who has sat only in Scotland or who has sat only in Northern Ireland shall be deemed to constitute a tribunal which does not sit outside England and Wales or which sits only in Scotland or which sits only in Northern Ireland, as the case may be.



### 9. Legal qualifications for certain tribunals

A person shall not be qualified to be appointed—

- (a) umpire or deputy umpire under section 41 (4) of the National Service Act 1948; or
- (b) chairman or deputy chairman of the appellate tribunal constituted under Schedule 4 to that Act,

unless he is a barrister, advocate or solicitor of not less than ten years standing.

### 10. Procedural rules for tribunals

(1) No power of a Minister, the Lord President of the Court of Session or the Commissioners of Inland Revenue to make, approve, confirm or concur in procedural rules for any such tribunal as is specified in Schedule 1 to this Act shall be exercisable except after consultation with the Council.

(2) The Council, in the exercise of their functions under this section as respects any such tribunal as is specified in Part II of Schedule 1 to this Act, shall consult with the Scottish Committee.

(3) In this section "procedural rules" includes any statutory provision relating to the procedure of the tribunal in question.

### 11. Procedure in connection with statutory inquiries

(1) The Lord Chancellor, after consultation with the Council, may make rules regulating the procedure to be followed in connection with statutory inquiries held by or on behalf of Ministers; and different provision may be made by any such rules in relation to different classes of such inquiries.

(2) Any rules made by the Lord Chancellor under this section shall have effect, in relation to any statutory inquiry, subject to the provisions of the enactment under which the inquiry is held, and of any rules or regulations made under that enactment.

(3) Subject to subsection (2) of this section, rules made under this section may regulate procedure in connection with matters preparatory to such statutory inquiries as are mentioned in subsection (1) of this section, and in connection with matters subsequent to such inquiries, as well as in connection with the conduct of proceedings at such inquiries.

(4) (*Applies to Scotland.*)

### 12. Reasons to be given for decisions of tribunals and Ministers

(1) Subject to the provisions of this section, where—

- (a) any such tribunal as is specified in Schedule 1 to this Act gives any decision; or
- (b) any Minister notifies any decision taken by him after the holding by him or on his behalf of a statutory inquiry, or taken by him in a case in which a person concerned could (whether by objecting or otherwise) have required the holding as aforesaid of a statutory inquiry,

it shall be the duty of the tribunal or Minister to furnish a statement, either written or oral, of the reasons for the decision if requested, on or before the giving or notification of the decision, to state the reasons.

(2) The said statement may be refused, or the specification of the reasons restricted, on grounds of national security, and the tribunal or Minister may refuse to furnish the statement to a person not primarily concerned with the decision if of opinion that to furnish it would be contrary to the interests of any person primarily concerned.

(3) Subsection (1) of this section shall not apply to any decision taken by a Minister after the holding by him or on his behalf of any inquiry or hearing which



is a statutory inquiry by virtue only of an order made under section 19 (2) of this Act unless the order contains a direction that this section is to apply in relation to any inquiry or hearing to which the order applies.

(4) Subsection (1) of this section shall not apply to decisions in respect of which any statutory provision has effect, apart from this section, as to the giving of reasons, or to decisions of a Minister in connection with the preparation, making, approval, confirmation, or concurrence in regulations, rules, or byelaws, or orders or schemes of a legislative and not executive character.

(5) Any statement of the reasons for such a decision as is mentioned in paragraph (a) or (b) of subsection (1) of this section, whether given in pursuance of that subsection or of any other statutory provisions, shall be taken to form part of the decision and accordingly to be incorporated in the record.

(6) If, after consultation with the Council, it appears to the Lord Chancellor and the Secretary of State that it is expedient that decisions of any particular tribunal or any description of such decisions, or any description of decisions of a Minister should be excluded from the operation of subsection (1) of this section on the ground that the subject-matter of such decisions, or the circumstances in which they are made, make the giving of reasons unnecessary or impracticable, the Lord Chancellor and the Secretary of State may by order direct that subsection (1) of this section shall not apply to such decisions.

*Judicial control of tribunals etc.*

**13. Appeals from certain tribunals**

(1) If any party to proceedings before any such tribunal as is specified in paragraph 2 (b), 4, 6, 10, 16, 17 (b), 18 (a), 21, 26, 28 (a) or (b) or 32 of Schedule 1 to this Act is dissatisfied in point of law with a decision of the tribunal he may, according as rules of court may provide, either appeal therefrom to the High Court or require the tribunal to state and sign a case for the opinion of the High Court.

(2) Rules of court made with respect to all or any of the said tribunals may provide for authorising or requiring a tribunal, in the course of proceedings before it, to state, in the form of a special case for the decision of the High Court, any question of law arising in the proceedings; and a decision of the High Court on a case stated by virtue of this subsection shall be deemed to be a judgment of the Court within the meaning of section 27 of the Supreme Court of Judicature (Consolidation) Act 1925 (jurisdiction of Court of Appeal to hear and determine appeals from judgments of the High Court).

(3) In relation to proceedings in the High Court or the Court of Appeal brought by virtue of this section the power to make rules of court shall include power to make rules prescribing the powers of the High Court or the Court of Appeal with respect to—

- (a) the giving of any decision which might have been given by the tribunal;
- (b) the remitting of the matter with the opinion or direction of the court for re-hearing and determination by the tribunal;
- (c) the giving of directions to the tribunal;

and different provisions may be made for different tribunals.

(4) Rules of court relating to such proceedings as aforesaid may provide for excluding so much of section 63 (1) of the said Act of 1925 as requires appeals to the High Court to be heard and determined by a Divisional Court; but no appeal to the Court of Appeal shall be brought by virtue of this section except with the leave of the High Court or the Court of Appeal.

(5) Subsection (1) of this section shall apply to a decision of the Secretary of State on an appeal from the traffic commissioners for any area or the traffic commissioner for the metropolitan traffic area as it applies to a decision of any of the tribunals mentioned in that subsection, but with the substitution for the reference to a party to proceedings of a reference to any person who had, or if aggrieved would have had, a right to appeal to the Secretary of State (whether or not he has exercised that right); and accordingly references in subsections (1) and (3) of this section to a tribunal shall be construed, in relation to such an appeal, as references to the Secretary of State.

(6) (*Applies to Scotland.*)

(7) In relation to any proceedings in Northern Ireland of any of the tribunals referred to in subsection (1) of this section, this section shall have effect with the following modifications, that is to say—

- (a) in subsection (2), for the words from the beginning to “provide” there shall be substituted the words “Rules may be made under section 7 of the Northern Ireland Act 1962 providing”, and for the words “section 27 of the Supreme Court of Judicature (Consolidation) Act 1925” there shall be substituted the words “section 24 of the Supreme Court of Judicature Act (Ireland) 1877”;
- (b) in subsection (3), for the words “the power to make rules of court shall include power to make rules” there shall be substituted the words “rules may be made under section 7 of the Northern Ireland Act 1962”;
- (c) in subsection (4), for the words from the beginning to “Divisional Court” there shall be substituted the words “Rules made under section 7 of the Northern Ireland Act 1962, relating to such proceedings as aforesaid, shall provide that the appeal shall be heard, or as the case may be, the decision of the High Court shall be given by, a single judge”.

(8) Her Majesty may by Order in Council direct that all or any of the provisions of this section, so far as it relates to proceedings in the Isle of Man or any of the Channel Islands of the tribunal specified in paragraph 32 of Schedule 1 to this Act, shall extend to the Isle of Man or to any of the Channel Islands subject to such modifications as may be specified in the Order.

(9) In this section “decision” includes any direction or order, and references to the giving of a decision shall be construed accordingly.

(10) In relation to any such tribunals as are specified in paragraph 10 or 38 of Schedule 1 to this Act this section shall have effect subject to any enactment passed in the same Session as this Act with respect to appeals from such tribunals.

#### **14. Extension of supervisory powers of superior courts**

(1) As respects England and Wales or Northern Ireland, any provision in an Act passed before 1st August 1958 that any order or determination shall not be called into question in any court, or any provision in such an Act which by similar words excludes any of the powers of the High Court, shall not have effect so as to prevent the removal of the proceedings into the High Court by order of certiorari or to prejudice the powers of the High Court to make orders of mandamus:

Provided that this subsection, so far as it relates to the High Court in Northern Ireland, shall not affect any provision in its application to a matter with respect to which the Parliament of Northern Ireland has power to make laws.

(2) (*Applies to Scotland.*)

(3) Nothing in this section shall affect section 26 of the British Nationality Act 1948 or apply to any order or determination of a court of law or where an Act makes special provision for application to the High Court or the Court of Session within a time limited by the Act.



*Supplementary provisions*

**15. Power to apply Act to additional tribunals and to repeal or amend certain provisions**

(1) The Lord Chancellor and the Secretary of State may by order direct that Part I or Part II of Schedule 1 to this Act shall have effect as if there were specified therein any such tribunals, other than any of the ordinary courts of law, as may be provided by the order.

(2) The Lord Chancellor and the Secretary of State may by order make provision, as respects any such tribunal as is for the time being specified in Schedule 1 to this Act, not being a tribunal mentioned in section 7 of this Act; for applying any of the provisions of that section to the tribunal or for providing for the appointment by the Lord Chancellor, the Lord President of the Court of Session or the Lord Chief Justice of Northern Ireland of the chairman of the tribunal and of any person to be appointed to act as chairman.

(3) The Lord Chancellor and the Secretary of State may by order apply section 13 of this Act to any such tribunal as is for the time being specified in Schedule 1 to this Act.

(4) Any order under the foregoing provisions of this section may make any such adaptations of the provisions of this Act as may be necessary or expedient in consequence of the order.

(5) The Lord Chancellor and the Secretary of State may by order—

(a) repeal or amend section 8 (3) of this Act or any of paragraphs 2, 3, 5, 8, 9, 10, 13, 14, 18 (a), 23 (a) and (d), 27, 28 (b), 29 (d), 34, 38, 39, 43 (a), 44 and 45 (b) of Schedule 1 to this Act;

(b) repeal the references in section 13 of this Act to any of paragraphs 2 (b), 10, 18 (a), 28 (b), 38 and 45 (b) of Schedule 1 to this Act.

(6) Nothing in this section shall authorise the making of an order with respect to a tribunal having jurisdiction only over matters with respect to which the Parliament of Northern Ireland has power to make laws.

**16. Rules and orders**

(1) Any power of the Lord Chancellor and the Secretary of State or either of them to make rules or orders under this Act shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(2) Any power of those Ministers to make orders under any section of this Act includes power to vary or revoke any order under that section by a subsequent order but any such subsequent order under section 12 (6) of this Act shall be made only after consultation with the Council.

**17. Transitory provisions**

Schedule 2 to this Act shall have effect with respect to the matters there dealt with, being matters connected with the coming into force of the Tribunals and Inquiries Act 1958 and the Tribunals and Inquiries Act 1966.



### 18. Consequential amendments, repeals and savings

- (1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments there specified, being amendments consequential on this Act.
- (2) The enactments specified in Part I of Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Part; and the orders specified in Part II of that Schedule are hereby revoked.
- (3) Any appointment, designation, determination, rule or order made, any approval or consent given and any other thing done under or for the purposes of any provision repealed or revoked by this Act shall, if in force immediately before the commencement of this Act, have effect as if made, given or done under or for the purposes of the corresponding enactment in this Act; and any proceedings or other thing begun under or by virtue of any provision so repealed or revoked may be continued under this Act as if begun thereunder.
- (4) So much of any document as refers expressly or by implication to any provision repealed or revoked by this Act shall, if and so far as the nature of the subject-matter of the document permits, be construed as referring to this Act or the corresponding enactment therein as the case may require.
- (5) Nothing in this section shall be taken to prejudice the general application of section 38 of the Interpretation Act 1889 with regard to the effect of repeals.

### 19. Interpretation

- (1) In this Act, except where the context otherwise requires—
- “the Council” means the Council on Tribunals;
  - “Minister” includes any Board presided over by a Minister;
  - “the Scottish Committee” means the Scottish Committee of the Council on Tribunals;
  - “statutory inquiry” means—
    - (a) an inquiry or hearing held or to be held in pursuance of a duty imposed by any statutory provision; or
    - (b) an inquiry or hearing, or an inquiry or hearing of a class, designated for the purposes of this section by an order under subsection (2) of this section;
  - “statutory provision” means a provision contained in, or having effect under, any enactment.
- (2) The Lord Chancellor and the Secretary of State may by order designate for the purposes of this section any inquiry or hearing held or to be held in pursuance of a power conferred by any statutory provision specified or described in the order, or any class of such inquiries or hearings.
- (3) References in this Act to members of tribunals include references to the person constituting a tribunal consisting of one person.
- (4) References in this Act to the working or a decision of, or procedural rules for, any such tribunals as are specified in paragraph 17, 22, 29 (a), (b) or (c), 30, 35, 41 or 46, or the Controller of Plant Variety Rights referred to in paragraph 25 (a), of Schedule 1 to this Act do not include references to their working, decisions or procedure in the exercise of executive functions.

### 20. Short title, commencement and extent

- (1) This Act may be cited as the Tribunals and Inquiries Act 1971.
- (2) This Act shall come into force at the expiration of the period of one month beginning with the day on which it is passed.
- (3) It is hereby declared that this Act extends to Northern Ireland.

## SCHEDULES

## SCHEDULE 1

Sections 1, 4, 5, 7, 8, 10, 12, 13, 15 and 19

## TRIBUNALS UNDER GENERAL SUPERVISION OF COUNCIL

## PART I

## TRIBUNALS UNDER DIRECT SUPERVISION OF COUNCIL

<i>Matters with which tribunal concerned</i>	<i>Tribunal and statutory authority</i>
Agriculture .. .. .	1. (a) The Agricultural Land Tribunals established under section 73 of the Agriculture Act 1947 (c. 48); (b) arbitrators appointed (otherwise than by agreement) under Schedule 6 to the Agricultural Holdings Act 1948 (c. 63).
Aviation .. .. .	2. (a) The Air Transport Licensing Board established under section 1 of the Civil Aviation (Licensing) Act 1960 (c. 38); (b) persons appointed under an Order in Council made in pursuance of section 8 of the Civil Aviation Act 1949 (c. 67) for the purpose of hearing appeals relating to Air Operators' Certificates.
Betting levy .. .. .	3. An appeal tribunal for England and Wales established under section 29 of the Betting, Gaming and Lotteries Act 1963 (c. 2).
Children's voluntary homes	4. Appeal tribunals constituted in accordance with section 30 of, and Part I of Schedule 1 to, the Children Act 1948 (c. 43).
Commons .. .. .	5. The Commons Commissioners and assessors appointed under section 17 (2) and (3) of the Commons Registration Act 1965 (c. 64).
Education .. .. .	6. Independent Schools Tribunals constituted under section 72 of, and Schedule 6 to, the Education Act 1944 (c. 31).
Forestry .. .. .	7. Committees appointed for the purposes of section 20 or 21 of the Forestry Act 1967 (c. 10), being committees the members of which are appointed by the Minister having functions under those sections as respects England or Wales.
Immigration appeals ..	8. (a) The adjudicators established by section 1 of the Immigration Appeals Act 1969 (c. 21); (b) the Immigration Appeal Tribunal established by section 1 of the Immigration Appeals Act 1969 (c. 21).
Indemnification of justices and clerks.	9. Any person appointed under section 27 (3) of the Administration of Justice Act 1964 (c. 42).
Industry and employment	10. The industrial tribunals for England and Wales established under section 12 of the Industrial Training Act 1964 (c. 16).
Iron and steel .. .. .	11. The Iron and Steel Arbitration Tribunal established under section 32 of the Iron and Steel Act 1967 (c. 17).
Land.. .. .	12. The Lands Tribunal constituted under section 1 (1) (b) of the Lands Tribunal Act 1949 (c. 42).
London Building Acts ..	13. The tribunal of appeal constituted in accordance with section 109 of the London Building Acts (Amendment) Act 1939 (c. xcvi).

<i>Matters with which tribunal concerned</i>	<i>Tribunal and statutory authority</i>
Mental Health .. ..	14. The Mental Health Review Tribunals constituted under section 3 of the Mental Health Act 1959 (c. 72).
Milk and Dairies .. ..	15. Tribunals constituted under regulations made under, or having effect as if made under, Part II of the Food and Drugs Act 1955 (c. 16).
Mines and Quarries .. ..	16. Tribunals for the purposes of section 150 of the Mines and Quarries Act 1954 (c. 70).
National Health Service .. ..	17. (a) Executive Councils constituted under subsections (1) and (2) of section 31 of the National Health Service Act 1946 (c. 81), and joint committees constituted under subsection (4) of that section; (b) the tribunal constituted under section 42 of the National Health Service Act 1946 (c. 81); (c) service committees of an Executive Council, being committees constituted in accordance with regulations made under the National Health Service Act 1946 (c. 81).
National Insurance etc. .. ..	18. (a) An adjudicator appointed under section 74 (3) of the National Insurance Act 1965 (c. 51); (b) local tribunals constituted under section 77 of the National Insurance Act 1965 (c. 51) or constituted under regulations made under section 73 (1) of that Act; (c) medical appeal tribunals constituted for the purposes of the National Insurance (Industrial Injuries) Act 1965 (c. 52); (d) any Commissioner appointed under section 9 of the National Insurance Act 1966 (c. 6), and any tribunal presided over by such a Commissioner.
National Service .. ..	19. (a) The Military Service (Hardship) Committees constituted under Schedule 3 to the National Service Act 1948 (c. 64); (b) the local tribunals constituted under Schedule 4 to the National Service Act 1948 (c. 64); (c) the appellate tribunal constituted under Schedule 4 to the National Service Act 1948 (c. 64); (d) the referees selected under the proviso to section 23 (3) of the National Service Act 1948 (c. 64); (e) the Reinstatement Committees appointed under section 41 (1) of the National Service Act 1948 (c. 64); (f) the umpire and any deputy umpire appointed under section 41 (4) of the National Service Act 1948 (c. 64).
Non-contributory benefit etc.	20. The appeal tribunals constituted in accordance with Schedule 3 to the Ministry of Social Security Act 1966 (c. 20).
Nurses' training institutions	21. Persons nominated under section 21 (2) of the Nurses Act 1957 (c. 15).
Patents, designs and trade marks.	22. The comptroller-general of patents, designs, and trade marks, and any officer authorised to exercise the functions of the comptroller under section 62 (3) of the Patents and Designs Act 1907 (c. 29).



*Matters with which  
tribunal concerned*

*Tribunal and statutory authority*

- |                                    |   |
|------------------------------------|---|
| Pensions .. .. .                   | 23. (a) Pensions Appeal Tribunals for England and Wales established under section 8 of the War Pensions (Administrative Provisions) Act 1919 (c. 53);<br>(b) Pensions Appeal Tribunals constituted under the Pensions Appeal Tribunals Act 1943 (c. 39), being tribunals appointed for England and Wales;<br>(c) tribunals appointed under regulations under section 1 of the Police Pensions Act 1948 (c. 24) to hear such appeals as by virtue of the regulations lie to tribunals so appointed;<br>(d) appeal tribunals constituted in accordance with a scheme in force under section 26 of the Fire Services Act 1947 (c. 41). |
| Performing rights .. .. .          | 24. The Performing Right Tribunal established under section 23 of the Copyright Act 1956 (c. 74).   |
| Plant varieties .. .. .            | 25. (a) The Controller of Plant Variety Rights and any officer authorised to exercise the functions of the Controller under section 11 (5) of the Plant Varieties and Seeds Act 1964 (c. 14);<br>(b) the Plant Variety Rights Tribunal established by section 10 of the Plant Varieties and Seeds Act 1964 (c. 14).   |
| Prevention of fraud (investments). | 26. The tribunal of inquiry constituted under section 6 of the Prevention of Fraud (Investments) Act 1958 (c. 45).  |
| Rates .. .. .                      | 27. Local valuation courts constituted in accordance with section 88 of the General Rate Act 1967 (c. 9).   |
| Rents .. .. .                      | 28. (a) Rent Tribunals constituted in accordance with section 69 of the Rent Act 1968 (c. 23);<br>(b) Rent assessment committees constituted in accordance with Schedule 5 to the Rent Act 1968 (c. 23).  |
| Taxation .. .. .                   | 29. (a) The Commissioners for the general purposes of the income tax acting under section 2 of the Taxes Management Act 1970 (c. 9) for any division in England and Wales;  |
| Revenue—cost .. .. .               | (b) the Commissioners for the special purposes of the Income Tax Acts appointed under section 4 of the Taxes Management Act 1970 (c. 9).<br>(c) the Board of Referees appointed for the purposes of section 26 of the Capital Allowances Act 1968 (c. 3);<br>(d) the tribunal constituted for the purposes of Chapter I of Part XVII of the Income and Corporation Taxes Act 1970 (c. 10).  |
| Road Traffic .. .. .               | 30. (a) The traffic commissioners for any area appointed under Part III of the Road Traffic Act 1960 (c. 16) and the traffic commissioner for the metropolitan traffic area;<br>(b) the licensing authority for the purposes of Part V of the Transport Act 1968 (c. 73).   |
| Transport charges and licences.    | 31. The Transport Tribunal constituted as provided in Schedule 10 to the Transport Act 1962 (c. 46).  |
| Wireless telegraphy .. .. .        | 32. The tribunal established under section 9 of the Wireless Telegraphy Act 1949 (c. 54).   |

*(Part II (paras. 33-47) applies to Scotland.)*

SCHEDULE 2

Section 17

TRANSITORY PROVISIONS

*Application of section 7 of this Act in relation to persons appointed before 1st January 1959*

1.—(1) Any person appointed by the appropriate authority before 1st January 1959 to be chairman of any tribunal to which section 7 (1) of this Act applies shall from that day and during the continuance of his appointment be deemed to be, and to have been, a member of a panel constituted by the Lord Chancellor for the purposes of that tribunal and to have been selected by the appropriate authority to be chairman of the tribunal.

(2) Any person appointed by the appropriate authority before 1st January 1959 to be a member of a panel from which apart from this Act the chairman of the tribunal would fall to be selected shall from that day and during the continuance of his appointment be deemed to be, and to have been, a member of a panel constituted by the Lord Chancellor for the purposes of that tribunal.

(3) Any power to terminate any such appointment as is mentioned in the foregoing provisions of this paragraph shall be exercisable by, and only by, the Lord Chancellor.

(4) Subsections (5), (7) and (8) of section 7 of this Act shall have effect in relation to this paragraph as they have effect in relation to that section.

*Rules made under section 7A of Tribunals and Inquiries Act 1958 before 13th December 1966*

2. *(Applies to Scotland.)*

SCHEDULE 3

Section 18 (1)

CONSEQUENTIAL AMENDMENTS

THE LAND COMPENSATION ACT 1961  
(9 & 10 Eliz. 2 c. 33)

In section 21 (1) of the Land Compensation Act 1961 for the words "the Tribunals and Inquiries Act 1958" there shall be substituted the words "the Tribunals and Inquiries Act 1971 (or any enactment replaced thereby)".

THE TOWN AND COUNTRY PLANNING ACT 1962  
(10 & 11 Eliz. 2 c. 38)

*(Rep. by the Town and Country Planning Act 1971, s. 292, Sch. 25.)*

THE PLANT VARIETIES AND SEEDS ACT 1964  
(1964 c. 14)

In section 10 (2) of the Plant Varieties and Seeds Act 1964 for the words "section 9 of the Tribunals and Inquiries Act 1958" there shall be substituted the words "section 13 of the Tribunals and Inquiries Act 1971".

THE NATIONAL INSURANCE ACT 1965  
(1965 c. 51)

In section 82 of the National Insurance Act 1965 for the words "the Tribunals and Inquiries Act 1958" there shall be substituted the words "the Tribunals and Inquiries Act 1971".

THE NATIONAL INSURANCE (INDUSTRIAL INJURIES) ACT 1965  
(1965 c. 52)

In section 55 of the National Insurance (Industrial Injuries) Act 1965 for the words "the Tribunals and Inquiries Act 1958" there shall be substituted the words "the Tribunals and Inquiries Act 1971".



THE RENT ACT 1968  
(1968 c. 23)

In paragraph 3 (3) of Schedule 10 to the Rent Act 1968 for the words "section 3 of the Tribunals and Inquiries Act 1958" there shall be substituted the words "section 7 of the Tribunals and Inquiries Act 1971".

THE TOWN AND COUNTRY PLANNING ACT 1968  
(1968 c. 72)

(*Rep. by the Town and Country Planning Act 1971, s. 292, Sch. 25.*)

THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1969  
(1969 c. 30)

(*Amends the Town and Country Planning (Scotland) Act 1969, Sch. 6, para. 14, Vol. 36, p. 804, and also other provisions of that Act applying to Scotland only.*)

THE TRANSPORT (LONDON) ACT 1969  
(1969 c. 35)

In paragraph 18 (2) of Schedule 5 to the Transport (London) Act 1969 for the words "Subsection (1) of section 9 of the Tribunals and Inquiries Act 1958" there shall be substituted the words "Subsection (1) of section 13 of the Tribunals and Inquiries Act 1971".

SCHEDULE 4

Section 18 (2)

REPEALS AND REVOCATIONS

PART I

ENACTMENTS REPEALED

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz. 2 c. 66	The Tribunals and Inquiries Act 1958	The whole Act except sections 1 (8) and 17.
7 & 8 Eliz. 2 c. 53	The Town and Country Planning Act 1959	Section 33.
7 & 8 Eliz. 2 c. 70	The Town and Country Planning (Scotland) Act 1959	Section 33.
10 & 11 Eliz. 2 c. 30	The Northern Ireland Act 1962	In Part I of Schedule 1 the entry relating to the Tribunals and Inquiries Act 1958.
10 & 11 Eliz. 2 c. 46	The Transport Act 1962	Section 88.
1964 c. 14	The Plant Varieties and Seeds Act 1964	Section 12.
1966 c. 6	The National Insurance Act 1966	Section 13 (3).
1966 c. 20	The Ministry of Social Security Act 1966	In Schedule 6 paragraph 16.
1966 c. 43	The Tribunals and Inquiries Act 1966	The whole Act.
1967 c. 13	The Parliamentary Commissioner Act 1967	Section 1 (5).
1967 c. 17	The Iron and Steel Act 1967	Section 32 (3).
1968 c. 23	The Rent Act 1968	In Schedule 15 the entry relating to the Tribunals and Inquiries Act 1958.
1968 c. 49	The Social Work (Scotland) Act 1968	Section 89.
1968 c. 73	The Transport Act 1968	In Part I of Schedule 10 the entry relating to the Tribunals and Inquiries Act 1958.
1971 c. 28	The Rent (Scotland) Act 1971	In Part II of Schedule 18 the entry relating to the Tribunals and Inquiries Act 1958.



PART II  
ORDERS REVOKED

Number	Title
1959/1267	The Tribunals and Inquiries (National Insurance Adjudicator) Order 1959.
1960/810	The Tribunals and Inquiries (Mental Health Review Tribunals) Order 1960.
1960/1335	The Tribunals and Inquiries (Air Transport Licensing Board) Order 1960.
1960/1668	The Tribunals and Inquiries (Finance Act Tribunal) Order 1960.
1962/1697	The Tribunals and Inquiries (Betting Levy Appeal Tribunals) Order 1962.
1964/445	The Tribunals and Inquiries (Compensation Appeal Tribunals) Order 1964.
1964/1726	The Tribunals and Inquiries (Indemnification of Justices and Clerks) Order 1964.
1965/276	The Tribunals and Inquiries (Miscellaneous Tribunals) Order 1965.
1965/1403	The Tribunals and Inquiries (Industrial Tribunals) Order 1965.
1965/2151	The Tribunals and Inquiries (Rent Assessment Committees) Order 1965.
1965/2190	The Tribunals and Inquiries (Local Valuation Courts and Valuation Appeal Committees) Order 1965.
1970/1219	The Tribunals and Inquiries (Immigration Appeals) Order 1970.
1970/1458	The Tribunals and Inquiries (Lands Tribunal for Scotland) Order 1970.
1970/1774	The Tribunals and Inquiries (Commons Commissioners) Order 1970.
1971/831	The Tribunals and Inquiries (Firemen's Pension Scheme Appeal Tribunals and Air Operators' Certificates) Order 1971.

## DESTINATION TABLE

This table shows in column (1) the enactments repealed by the Tribunals and Inquiries Act 1971 and in column (2) the provisions of that Act corresponding thereto.

In certain cases the enactment in column (1), though having a corresponding provision in column (2) is not, or is not wholly, repealed as it is still required, or partly required, for the purposes of other legislation.

## PART I: ACTS

(1)	(2)	(1)	(2)
Lands Tribunal Act 1949 (c. 42)	Tribunals and Inquiries Act 1971 (c. 62)	Tribunals and Inquiries Act 1958 (c. 66)	Tribunals and Inquiries Act 1971 (c. 62)
s. 3 (12) (a)	s. 13	Sch. 1, para. 14, 15	Sch. 1, para. 21, 22
Tribunals and Inquiries Act 1958 (c. 66)		16 (a), (b)	23 (b), (c)
		17	24
		18	26
		19	28 (a)
s. 1 (1)	s. 1 (1)	20 (a), (b)	29 (a), (b)
(2), (3), (4)	2 (1), (2), (4)	(c)	—
(5), (6), (7)	3	(d)	29 (c)
(8)†	—	21-24	30-33
(9)	1 (2)	25	—
2	4	26-28	35-37
3 (1)-(3)	7	29	—
(4)	—	30-32	40-42
(5)-(7)	7	33	43 (b)
(8)	Sch. 2, para. 1	34	45 (a)
(9)-(10)	s. 7	35 (a)	46
4	5	Town and Country Planning Act 1959 (c. 53)	
5	8		
6	9	s. 33	s. 11
7	—		
7A (1)-(3)	11	Northern Ireland Act 1962 (c. 30)	
(4)	16		
8	10	Sch. 1†	13
9	13		
10 (1)-(4)	15 (1)-(4)	Transport Act 1962 (c. 46)	
(5)*, (6)	16	s. 88	—
11	14		
12 (1)-(4)	12	Plant Varieties and Seeds Act 1964 (c. 14)	
(5)	16	s. 12 (1)	Sch. 1, para. 25
13	—	(2)	s. 8
14	19	(3)	19
15-16	—	National Insurance Act 1966 (c. 6)	
17†	—		
Sch. 1, para. 1	Sch. 1, para. 1	s. 13 (3)	—
2	4		
3	—		
4, 5	6, 7		
6	12		
7, 8	15, 16		
9	20		
10	17		
11 (a)-(c)	18 (b)-(d)		
12	—		
13	19		

† Not repealed.

\* The Act consolidates the effect of the current orders under s. 10 of the Act of 1958. The power to vary or revoke such orders conferred by s. 10 (5) is preserved in relation to provisions of the Act derived from such orders by s. 15 (5), *ante*.

(1)	(2)	(1)	(2)
Ministry of Social Security Act 1966 (c. 20)	Tribunals and Inquiries Act 1971 (c. 62)	Iron and Steel Act 1967 (c. 17)	Tribunals and Inquiries Act 1971 (c. 62)
Sch. 6, para. 16	Sch. 1, para. 20	s. 32 (3)	Sch. 1, para. 11
Tribunals and Inquiries Act 1966 (c. 43)		Rent Act 1968 (c. 23)	
s. 1 (1)	ss. 1 (1), 11	Sch. 15	—
(2)	12, 19, Sch. 2, para. 2	Social Work (Scotland) Act 1968 (c. 49)	
(3)	s. 16	s. 89	Sch. 1, para. 47
(4)	19	Transport Act 1968 (c. 73)	
(5)	20	Sch. 10, Part I†	Sch. 1, para. 30
2 (1)	11	18, Part IV*	Sch. 1, para. 30
3	10		
4	6		
Parliamentary Commissioner Act 1967 (c. 13)			
s. 1 (5)	2 (3)		

† Repealed in part.

\* Not repealed.

## PART II: STATUTORY INSTRUMENTS

(1)	(2)	(1)	(2)
Statutory Instrument	Tribunals and Inquiries Act 1971 (c. 62)	Statutory Instrument	Tribunals and Inquiries Act 1971 (c. 62)
S.I. 1958 No. 2079	Sch. 2, para. 1	S.I. 1965 No. 1403	Sch. 1, para. 10
S.I. 1959 No. 1267	Sch. 1, para. 18 (a)	art. 4	para. 38
art. 4	s. 13	S.I. 1965 No. 2151	s. 13
S.I. 1960 No. 810	Sch. 1, para. 14	art. 3	Sch. 1, para. 28 (b)
S.I. 1960 No. 1335	Sch. 1, para. 2 (a)	4	13
S.I. 1960 No. 1668	Sch. 1, para. 29 (d)	S.I. 1965 No. 2190	Sch. 1, paras. 27, 44
S.I. 1962 No. 1697	Sch. 1, para. 3	S.I. 1970 No. 1219	
S.I. 1964 No. 445	para. 34	art. 4	Sch. 1, para. 8
S.I. 1964 No. 1726	—	S.I. 1970 No. 1458	—
S.I. 1965 No. 276	Sch. 1, para. 9	S.I. 1970 No. 1774	Sch. 1, para. 5
art. 3 (2)	Sch. 1, para. 13	S.I. 1971 No. 831	
	Sch. 1, paras. 23 (a), 43 (a)	art. 3 (1) (a)	Sch. 1, para. 23 (d)
		(b)	2 (b)
		(2)	13



# ADMINISTRATIVE PROCEDURE ACT

60 Stat. 237 (1946), as amended by 80 Stat. 378 (1966), as amended by 81 Stat. 54 (1967), 5 U.S.C. §§ 551-59, 701-06, 1305, 3105, 3344, 6362, 7562.

## UNITED STATES CODE, TITLE 5

\* \* \*

### CHAPTER 5—ADMINISTRATIVE PROCEDURE

\* \* \*

#### *Subchapter II—Administrative Procedure*

Sec.

- 551. Definitions.
- 552. Publication of information, rules, opinions, orders, and public records.
- 553. Rule making
- 554. Adjudications.
- 555. Ancillary matters.
- 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.
- 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.
- 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses.
- 559. Effect on other laws; effect of subsequent statute.

Parallel  
sections of  
1946 Act

#### § 551. Definitions

For the purpose of this subchapter—

- (1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—
- (A) the Congress;
- (B) the courts of the United States;
- (C) the governments of the territories or possessions of the United States;
- (D) the government of the District of Columbia;
- or except as to the requirements of section 552 of this title—

SEC. 2(a).

Parallel  
sections of  
1946 Act

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b) (2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

SEC. 2(b).

(3) "party" includes a person or agency named or admitted as a party, or property seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganization thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

SEC. 2(c).

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

SEC. 2(d).

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

SEC. 2(e).

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

Parallel  
sections of  
1946 Act

(10) "sanction" includes the whole or a part of an agency— SEC. 2(f).

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section; and SEC. 2(g).

(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.

<sup>1</sup> § 552. Public information; agency rules, opinions, orders, records, and proceedings SEC. 3. (as amended)

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public— SEC. 3(a)

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a

1. As amended by S1 Stat. 54 (1967).



Parallel  
sections of  
1946 Act

uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

SEC. 3(b)

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

Parallel  
sections of  
1946 Act

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency also shall maintain and make available for public inspection and copying a current index providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, on request for identifiable records, made in accordance with published rules stating the time, place, fees to the extent authorized by statute, and procedure to be followed, shall make the records promptly available to any person. On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo and the burden is on the agency to sustain its action. In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member. Except as to causes the court considers of greater importance, proceedings before the district court, as authorized by this paragraph, take precedence on the docket over all other causes and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way.

SEC. 3(c)



Parallel  
sections of  
1946 Act

(4) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(b) This section does not apply to matters that are—

(1) specifically required by Executive order to be kept secret in the interest of the national defense or foreign policy;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory files compiled for law enforcement purposes except to the extent available by law to a party other than an agency;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withhold information from Congress.



Parallel  
sections of  
1946 Act

**§ 553. Rule making**

**SEC. 4.**

(a) This section applies, accordingly to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

**SEC. 4(a).**

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

**SEC. 4(b).**

Parallel  
sections of  
1946 Act

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

SEC. 4(c).

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

SEC. 4(d).

§ 554. Adjudications

SEC. 5.

(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;

(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

(5) cases in which an agency is acting as an agent for a court; or

(6) the certification of worker representatives.

(b) Persons entitled to notice of an agency hearing shall be timely informed of—

SEC. 5(a).

(1) the time, place, and nature of the hearing;

(2) the legal authority and jurisdiction under which the hearing is to be held; and

(3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

Parallel  
sections of  
1946 Act  
SEC. 5(b).

(c) The agency shall give all interested parties opportunity for—

(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

(A) in determining applications for initial licenses;

(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

(C) to the agency or a member or members of the body comprising the agency.

(e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.

SEC. 5(c).



SEC. 5(d).



Parallel  
sections of  
1946 Act**§ 555. Ancillary matters**

SEC. 6.

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

SEC. 6(a).

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a non-public investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

SEC. 6(b).

(d) Agency subpoenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of contumacious failure to comply.

SEC. 6(c).

Parallel  
sections of  
1946 Act  
SEC. 6(d).

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

**§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision** SEC. 7.

(a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence— SEC. 7(a).

- (1) the agency;
- (2) one or more members of the body which comprises the agency; or
- (3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matters as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may— SEC. 7(b).

- (1) administer oaths and affirmations;
- (2) issue subpoenas authorized by law;
- (3) rule on offers of proof and receive relevant evidence;

Parallel  
sections of  
1946 Act

(4) take depositions or have depositions taken when the ends of justice would be served;

(5) regulate the course of the hearing;

(6) hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) dispose of procedural requests or similar matters;

(8) make or recommend decisions in accordance with section 557 of this title; and

(9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form. SEC. 7(c).

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary. SEC. 7(d).



Parallel  
sections of  
1946 Act

**§ 557. Initial decisions; conclusiveness; review  
by agency; submissions by parties;  
contents of decisions; record**

SEC. 8.

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

SEC. 8(a).

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining application for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

SEC. 8(b).

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

Parallel  
sections of  
1946 Act

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

**§ 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses** **SEC. 9.**

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law. **SEC. 9(a).**

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given— **SEC. 9(b).**

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

Parallel  
sections of  
1946 Act

**§ 559. Effect on other laws; effect of subsequent statute**

**SEC. 12.**

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2) (E), 5362, and 7521, and the provisions of section 5335(a) (B) of this title that relate to hearing examiners, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2) (E), 5362, or 7521, or the provisions of section 5335(a) (B) of this title that relate to hearing examiners, except to the extent that it does so expressly.

\* \* \*



## CHAPTER 7—JUDICIAL REVIEW

- Sec.  
 701. Application; definitions.  
 702. Right of review.  
 703. Form and venue of proceeding.  
 704. Actions reviewable.  
 705. Relief pending review.  
 706. Scope of review.

Parallel  
 sections of  
 1946 Act

**§ 701. Application; definitions**

(a) This chapter applies, according to the provisions thereof, except to the extent that—

- (1) statutes preclude judicial review; or
- (2) agency action is committed to agency discretion by law.

SEC. 10.  
 [Introductory clause].

(b) <sup>3</sup> For the purpose of this chapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

SEC. 2(a).

- (A) the Congress;
- (B) the courts of the United States;
- (C) the governments of the territories or possessions of the United States;
- (D) the government of the District of Columbia;
- (E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;
- (F) courts martial and military commissions;
- (G) military authority exercised in the field in time of war or in occupied territory; or
- (H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b) (2), of title 50, appendix; and

(2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title.

3. § 701(b) (1) is identical to § 551(1) (A) through (H).

Parallel  
sections of  
1946 Act**§ 702. Right of review**

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.\*

SEC. 10(a).

**§ 703. Form and venue of proceeding**

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. Except to the extent that prior, adequate, and exclusive opportunity for judicial review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.

SEC. 10(b).

**§ 704. Actions reviewable**

Agency action made reviewable by statute and final agency action for which there is no adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsideration, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

SEC. 10(c).

**§ 705. Relief pending review**

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.

SEC. 10(d).

Parallel  
sections of  
1946 Act

**§ 706. Scope of review**

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

SEC. 10(e).

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to section 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

\* \* \*

**§ 3105. Appointment of hearing examiners**

Each agency shall appoint as many hearing examiners as are necessary for proceedings required to be conducted in accordance with sections 556 and 557 of this title. Hearing examiners shall be assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as hearing examiners.

SEC. 11 (1st sentence).

**§ 7521. Removal**

A hearing examiner appointed under section 3105 of this title may be removed by the agency in which he is employed only for good cause established and determined by the Civil Service Commission on the record after opportunity for hearing.

SEC. 11 (2d sentence).



Parallel  
sections of  
1946 Act

**§ 5362. Hearing examiners**

Hearing examiners appointed under section 3105 of this title are entitled to pay prescribed by the Civil Service Commission independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title.

SEC. 11 (3d  
sentence).

**§ 3344. Details; hearing examiners**

An agency as defined by section 551 of this title which occasionally or temporarily is insufficiently staffed with hearing examiners appointed under section 3105 of this title may use hearing examiners selected by the Civil Service Commission from and with the consent of other agencies.

SEC. 11 (4th  
sentence).

**§ 1305. Hearing examiners**

For the purpose of sections 3105, 3344, 4301 (2) (E), 5362, and 7521 and the provisions of section 5335(a) (B) of this title that relate to hearing examiners, the Civil Service Commission may investigate, require reports by agencies, issue reports, including an annual report to Congress, prescribe regulations, appoint advisory committees as necessary, recommend legislation, subpoena witnesses and records, and pay witness fees as established for the courts of the United States.

SEC. 11 (5th  
sentence).



## ประวัติผู้เขียน

นายเกรียงไกร เจริญนาวัฒน์ เกิดเมื่อวันที่ 26 สิงหาคม พ.ศ. 2504  
สำเร็จการศึกษาชั้นมัธยมศึกษาตอนปลายจาก โรงเรียนเตรียมอุดมศึกษา พญาไท  
สำเร็จการศึกษาชั้นปริญญาตรีศาสตรบัณฑิต จากจุฬาลงกรณ์มหาวิทยาลัย  
เมื่อปีการศึกษา 2526.