

Status: Point in time view as at 01/06/2009.

Changes to legislation: Housing Act 2004, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 5

Sections 71 and 94

LICENCES UNDER PARTS 2 AND 3: PROCEDURE AND APPEALS

PART 1

PROCEDURE RELATING TO GRANT OR REFUSAL OF LICENCES

Requirements before grant of licence

- 1 Before granting a licence, the local housing authority must—
- (a) serve a notice under this paragraph, together with a copy of the proposed licence, on the applicant for the licence and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.

Commencement Information

- I1** Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 2 The notice under paragraph 1 must state that the authority are proposing to grant the licence and set out—
- (a) the reasons for granting the licence,
 - (b) the main terms of the licence, and
 - (c) the end of the consultation period.

Commencement Information

- I2** Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 3 (1) This paragraph applies if, having considered representations made in accordance with a notice under paragraph 1 or this paragraph, the local housing authority propose to grant a licence with modifications.
- (2) Before granting the licence the authority must—
- (a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.

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Commencement Information

- I3** Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 4 The notice under paragraph 3 must set out—
- (a) the proposed modifications,
 - (b) the reasons for them, and
 - (c) the end of the consultation period.

Commencement Information

- I4** Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Requirements before refusal to grant licence

- 5 Before refusing to grant a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the applicant for the licence and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.

Commencement Information

- I5** Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 6 The notice under paragraph 5 must state that the local housing authority are proposing to refuse to grant the licence and set out—
- (a) the reasons for refusing to grant the licence, and
 - (b) the end of the consultation period.

Commencement Information

- I6** Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Requirements following grant or refusal of licence

- 7 (1) This paragraph applies where the local housing authority decide to grant a licence.
- (2) The local housing authority must serve on the applicant for the licence (and, if different, the licence holder) and each relevant person—
- (a) a copy of the licence, and

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- (b) a notice setting out—
- (i) the reasons for deciding to grant the licence and the date on which the decision was made,
 - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
 - (iii) the period within which an appeal may be made (see paragraph 33(1)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Commencement Information

17 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 8
- (1) This paragraph applies where the local housing authority refuse to grant a licence.
- (2) The local housing authority must serve on the applicant for the licence and each relevant person a notice setting out—
- (a) the authority's decision not to grant the licence,
 - (b) the reasons for the decision and the date on which it was made,
 - (c) the right of appeal against the decision under Part 3 of this Schedule, and
 - (d) the period within which an appeal may be made (see paragraph 33(1)).
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Commencement Information

18 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Exceptions from requirements in relation to grant or refusal of licences

- 9
- The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority—
- (a) have already served a notice under paragraph 1 but not paragraph 3 in relation to the proposed licence, and
 - (b) consider that the modifications which are now being proposed are not material in any respect.

Commencement Information

19 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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- 10 The requirements of paragraph 3 (and those of paragraph 1) do not apply if the local housing authority—
- (a) have already served notices under paragraphs 1 and 3 in relation to the matter concerned, and
 - (b) consider that the further modifications which are now being proposed do not differ in any material respect from the modifications in relation to which a notice was last served under paragraph 3.

Commencement Information

I10 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 11 Paragraphs 5, 6 and 8 do not apply to a refusal to grant a licence on particular terms if the local housing authority are proposing to grant the licence on different terms.

Commencement Information

I11 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Meaning of “the end of the consultation period”

- 12 (1) In this Part of this Schedule “the end of the consultation period” means the last day for making representations in respect of the matter in question.
- (2) The end of the consultation period must be—
- (a) in the case of a notice under paragraph 1 or 5, a day which is at least 14 days after the date of service of the notice; and
 - (b) in the case of a notice under paragraph 3, a day which is at least 7 days after the date of service of the notice.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

Commencement Information

I12 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Meaning of “licence” and “relevant person”

- 13 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))—
- (a) who, to the knowledge of the local housing authority concerned, is—

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- (i) a person having an estate or interest in the HMO or Part 3 house in question, or
 - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
 - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).
- (3) The persons excluded by this sub-paragraph are—
- (a) the applicant for the licence and (if different) the licence holder, and
 - (b) any tenant under a lease with an unexpired term of 3 years or less.

Commencement Information

I13 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

PART 2

PROCEDURE RELATING TO VARIATION OR REVOCATION OF LICENCES

Variation of licences

- 14 Before varying a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.

Commencement Information

I14 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 15 The notice under paragraph 14 must state that the local housing authority are proposing to make the variation and set out—
- (a) the effect of the variation,
 - (b) the reasons for the variation, and
 - (c) the end of the consultation period.

Commencement Information

I15 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 16 (1) This paragraph applies where the local housing authority decide to vary a licence.

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- (2) The local housing authority must serve on the licence holder and each relevant person—
- (a) a copy of the authority’s decision to vary the licence, and
 - (b) a notice setting out—
 - (i) the reasons for the decision and the date on which it was made,
 - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
 - (iii) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Commencement Information

I16 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Exceptions from requirements of paragraph 14

- 17 The requirements of paragraph 14 do not apply if—
- (a) the local housing authority consider that the variation is not material, or
 - (b) the variation is agreed by the licence holder and the local housing authority consider that it would not be appropriate to comply with the requirements of that paragraph.

Commencement Information

I17 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 18 The requirements of paragraph 14 do not apply if the local housing authority—
- (a) have already served a notice under that paragraph in relation to a proposed variation, and
 - (b) consider that the variation which is now being proposed is not materially different from the previous proposed variation.

Commencement Information

I18 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Refusal to vary a licence

- 19 Before refusing to vary a licence, the local housing authority must—

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- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
- (b) consider any representations made in accordance with the notice and not withdrawn.

Commencement Information

I19 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 20 The notice under paragraph 19 must state that the authority are proposing to refuse to vary the licence and set out—
- (a) the reasons for refusing to vary the licence, and
 - (b) the end of the consultation period.

Commencement Information

I20 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 21 (1) This paragraph applies where the local housing authority refuse to vary a licence.
- (2) The authority must serve on the licence holder and each relevant person a notice setting out—
- (a) the authority’s decision not to vary the licence,
 - (b) the reasons for the decision and the date on which it was made,
 - (c) the right of appeal against the decision under Part 3 of this Schedule, and
 - (d) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Commencement Information

I21 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Revocation of licences

- 22 Before revoking a licence, the local housing authority must—
- (a) serve a notice on the licence holder under this paragraph and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.

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Commencement Information

I22 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 23 The notice under paragraph 22 must state that the authority are proposing to revoke the licence and set out—
- (a) the reasons for the revocation, and
 - (b) the end of the consultation period.

Commencement Information

I23 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 24 (1) This paragraph applies where the local housing authority decide to revoke a licence.
- (2) The authority must serve on the licence holder and each relevant person—
- (a) a copy of the authority’s decision to revoke the licence, and
 - (b) a notice setting out—
 - (i) the reasons for the decision and the date on which it was made,
 - (ii) the right of appeal against the decision under Part 3 of this Schedule, and
 - (iii) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The documents required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Commencement Information

I24 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Exception from requirements of paragraph 22

- 25 The requirements of paragraph 22 do not apply if the revocation is agreed by the licence holder and the local housing authority consider that it would not be appropriate to comply with the requirements of that paragraph.

Commencement Information

I25 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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Refusal to revoke a licence

- 26 Before refusing to revoke a licence, the local housing authority must—
- (a) serve a notice under this paragraph on the licence holder and each relevant person, and
 - (b) consider any representations made in accordance with the notice and not withdrawn.

Commencement Information

I26 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 27 The notice under paragraph 26 must state that the authority are proposing to refuse to revoke the licence and set out—
- (a) the reasons for refusing to revoke the licence, and
 - (b) the end of the consultation period.

Commencement Information

I27 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

- 28 (1) This paragraph applies where the local housing authority refuse to revoke a licence.
- (2) The authority must serve on the licence holder and each relevant person a notice setting out—
- (a) the authority’s decision not to revoke the licence,
 - (b) the reasons for the decision and the date on which it was made,
 - (c) the right of appeal against the decision under Part 3 of this Schedule, and
 - (d) the period within which an appeal may be made (see paragraph 33(2)).
- (3) The notices required to be served under sub-paragraph (2) must be served within the period of seven days beginning with the day on which the decision is made.

Commencement Information

I28 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Meaning of “the end of the consultation period”

- 29 (1) In this Part of this Schedule “the end of the consultation period” means the last day on which representations may be made in respect of the matter in question.
- (2) That date must be at least 14 days after the date of service of the notice in question.
- (3) In sub-paragraph (2) “the date of service” of a notice means, in a case where more than one notice is served, the date on which the last of the notices is served.

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Commencement Information

I29 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Meaning of “licence” and “relevant person”

- 30 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))—
- (a) who, to the knowledge of the local housing authority concerned, is—
 - (i) a person having an estate or interest in the HMO or Part 3 house in question, or
 - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
 - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).
- (3) The persons excluded by this sub-paragraph are—
- (a) the licence holder, and
 - (b) any tenant under a lease with an unexpired term of 3 years or less.

Commencement Information

I30 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

PART 3

APPEALS AGAINST LICENCE DECISIONS

Right to appeal against refusal or grant of licence

- 31 (1) The applicant or any relevant person may appeal to a residential property tribunal against a decision by the local housing authority on an application for a licence—
- (a) to refuse to grant the licence, or
 - (b) to grant the licence.
- (2) An appeal under sub-paragraph (1)(b) may, in particular, relate to any of the terms of the licence.

Commencement Information

I31 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

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Right to appeal against decision or refusal to vary or revoke licence

- 32 (1) The licence holder or any relevant person may appeal to a residential property tribunal against a decision by the local housing authority—
- (a) to vary or revoke a licence, or
 - (b) to refuse to vary or revoke a licence.
- (2) But this does not apply to the licence holder in a case where the decision to vary or revoke the licence was made with his agreement.

Commencement Information

I32 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Time limits for appeals

- 33 (1) Any appeal under paragraph 31 against a decision to grant, or (as the case may be) to refuse to grant, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 7 or 8 as the date on which the decision was made.
- (2) Any appeal under paragraph 32 against a decision to vary or revoke, or (as the case may be) to refuse to vary or revoke, a licence must be made within the period of 28 days beginning with the date specified in the notice under paragraph 16, 21, 24 or 28 as the date on which the decision was made.
- (3) A residential property tribunal may allow an appeal to be made to it after the end of the period mentioned in sub-paragraph (1) or (2) if it is satisfied that there is a good reason for the failure to appeal before the end of that period (and for any delay since then in applying for permission to appeal out of time).

Commencement Information

I33 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Powers of residential property tribunal hearing appeal

- 34 (1) This paragraph applies to appeals to a residential property tribunal under paragraph 31 or 32.
- (2) An appeal—
- (a) is to be by way of a re-hearing, but
 - (b) may be determined having regard to matters of which the authority were unaware.
- (3) The tribunal may confirm, reverse or vary the decision of the local housing authority.
- (4) On an appeal under paragraph 31 the tribunal may direct the authority to grant a licence to the applicant for the licence on such terms as the tribunal may direct.

Status: Point in time view as at 01/06/2009.

Changes to legislation: Housing Act 2004, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Commencement Information

I34 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

“The operative time” for the purposes of section 69(6), 70(8), 92(3) or 93(5)

- 35 (1) This paragraph defines “the operative time” for the purposes of—
- (a) section 69(6) or 70(8) (variation or revocation of licence under Part 2 of this Act), or
 - (b) section 92(3) or 93(5) (variation or revocation of licence under Part 3 of this Act).
- (2) If the period of 28 days mentioned in paragraph 33(2) has expired without an appeal having been made under paragraph 32, “the operative time” is the end of that period.
- (3) If an appeal is made under paragraph 32 within that period and a decision is given on the appeal which confirms the variation or revocation, “the operative time” is as follows—
- (a) if the period within which an appeal to the [^{F1}Upper Tribunal] may be brought expires without such an appeal having been brought, “the operative time” is the end of that period;
 - (b) if an appeal to the [^{F1}Upper Tribunal] is brought, “the operative time” is the time when a decision is given on the appeal which confirms the variation or revocation.
- (4) For the purposes of sub-paragraph (3)—
- (a) the withdrawal of an appeal has the same effect as a decision confirming the variation or revocation appealed against; and
 - (b) references to a decision which confirms a variation are to a decision which confirms it with or without variation.

Textual Amendments

F1 Words in Sch. 5 para. 35(3)(a)(b) substituted (1.6.2009) by Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order 2009 (S.I. 2009/1307), art. 5(1)(2), Sch. 1 para. 281 (with Sch. 5)

Commencement Information

I35 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Meaning of “licence” and “relevant person”

- 36 (1) In this Part of this Schedule “licence” means a licence under Part 2 or 3 of this Act.
- (2) In this Part of this Schedule “relevant person”, in relation to a licence under Part 2 or 3 of this Act, means any person (other than a person excluded by sub-paragraph (3))—
- (a) who is—

Status: Point in time view as at 01/06/2009.

Changes to legislation: Housing Act 2004, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (i) a person having an estate or interest in the HMO or Part 3 house concerned, or
 - (ii) a person managing or having control of that HMO or Part 3 house (and not falling within sub-paragraph (i)), or
 - (b) on whom any restriction or obligation is or is to be imposed by the licence in accordance with section 67(5) or 90(6).
- (3) The persons excluded by this sub-paragraph are—
- (a) the applicant for the licence and (if different) the licence holder, and
 - (b) any tenant under a lease with an unexpired term of 3 years or less.

Commencement Information

I36 Sch. 5 wholly in force at 16.6.2006; Sch. 5 not in force at Royal Assent see s. 270(4)(5); Sch. 5 in force for E. at 6.4.2006 by S.I. 2006/1060, art. 2(1)(a) (with Sch.); Sch. 5 in force for W. at 16.6.2006 by S.I. 2006/1535, art. 2(a) (with Sch.)

Status:

Point in time view as at 01/06/2009.

Changes to legislation:

Housing Act 2004, SCHEDULE 5 is up to date with all changes known to be in force on or before 20 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.