

Changes to legislation: Housing Act 2004, Part 3 is up to date with all changes known to be in force on or before 28 April 2023. 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) View outstanding changes

SCHEDULES

SCHEDULE 5

LICENCES UNDER PARTS 2 AND 3: PROCEDURE AND APPEALS

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 [^{F1}the appropriate 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.

Textual Amendments

- F1** Words in Sch. 5 para. 31(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 184\(a\)](#) (with [Sch. 3](#))

Commencement Information

- II** 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.](#))

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

- 32 (1) The licence holder or any relevant person may appeal to [^{F2}the appropriate 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.

Textual Amendments

- F2** Words in Sch. 5 para. 32(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, [Sch. 1 para. 184\(a\)](#) (with [Sch. 3](#))

Changes to legislation: Housing Act 2004, Part 3 is up to date with all changes known to be in force on or before 28 April 2023. 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) View outstanding changes

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.](#))

[^{F3}No rights of appeal where banning order involved

Textual Amendments

- F3** [Sch. 5 para. 32A](#) and cross-heading inserted (6.4.2018) by [Housing and Planning Act 2016 \(c. 22\)](#), s. 216(3), [Sch. 2 para. 12\(4\)](#); [S.I. 2018/393](#), reg. 2(b)

- 32A (1) The right of appeal under paragraph 31(1)(a) does not apply where a licence is refused because of section 66(3A) or 89(3A) (person with banning order not a fit and proper person).
- (2) The right of appeal under paragraph 32(1)(a) does not apply in relation to the revocation of a licence required by section 70A or 93A (duty to revoke licence in banning order cases).]

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) [^{F4}The appropriate 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).

Textual Amendments

- F4** Words in [Sch. 5 para. 33\(3\)](#) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), [art. 1](#), [Sch. 1 para. 184\(b\)](#) (with [Sch. 3](#))

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.](#))

Changes to legislation: Housing Act 2004, Part 3 is up to date with all changes known to be in force on or before 28 April 2023. 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) View outstanding changes

Powers of^{F5}... tribunal hearing appeal

Textual Amendments

F5 Words in Sch. 5 para. 34 heading omitted (1.7.2013) by virtue of [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 184(c)** (with Sch. 3)

- 34 (1) This paragraph applies to appeals to [^{F6}the appropriate 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.

Textual Amendments

F6 Words in Sch. 5 para. 34(1) substituted (1.7.2013) by [The Transfer of Tribunal Functions Order 2013 \(S.I. 2013/1036\)](#), art. 1, **Sch. 1 para. 184(a)** (with Sch. 3)

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.)

“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 [^{F7}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 [^{F7}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)—

Changes to legislation: Housing Act 2004, Part 3 is up to date with all changes known to be in force on or before 28 April 2023. 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) View outstanding changes

- (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

- F7** 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

- 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.](#))

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—
 - (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

- 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.](#))

Changes to legislation:

Housing Act 2004, Part 3 is up to date with all changes known to be in force on or before 28 April 2023. 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.

[View outstanding changes](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act savings and transitional provisions for amendments by S.I. 2022/1166 by [S.I. 2022/1172](#) Regulations

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 66(1A) inserted by [2016 c. 22 s. 125\(3\)\(a\)](#)
- s. 66(3A)(3B) inserted by [2016 c. 22 s. 125\(3\)\(c\)](#)
- s. 89(1A) inserted by [2016 c. 22 s. 125\(6\)\(a\)](#)
- s. 89(3A)(3B) inserted by [2016 c. 22 s. 125\(6\)\(c\)](#)
- s. 139(7A)(7B) inserted by [2016 c. 22 s. 127\(3\)](#)