

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 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.

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.

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).

Status: This is the original version (as it was originally enacted).

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.

“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 Lands 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 Lands 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.

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.