

SCHEDULE 1

The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2016

PART 3

Procedure in respect of private rented applications

Procedure in respect of regulated tenancy references

Hearings

65.—(1) Where a regulated tenancy reference is to be subject to a hearing, the First-tier Tribunal shall appoint a date, time and place for the hearing.

(2) The First-tier Tribunal shall give not less than 10 days' notice in writing of the date, time and place so appointed for a hearing—

- (a) to the landlord and the tenant where the reference is a matter referred to the First-tier Tribunal under paragraph 7 of schedule 5 of the 1984 Act;
- (b) to the applicant where the reference is a matter relating to an application for the registration of a rent for a dwelling-house in accordance with a certificate of fair rent referred to the First-tier Tribunal under paragraph 9 of schedule 6 of the 1984 Act;
- (c) to the applicant where the reference is an application for a certificate of fair rent referred to the First-tier Tribunal under paragraph 2 or 6 of schedule 6 of the 1984 Act and, in a case to which paragraph 9 of that schedule applies, to the tenant;
- (d) to the lessor and the lessee where the reference is a Part VII contract referred to the First-tier Tribunal by either the lessor or the lessee; or
- (e) to the lessor and the lessee and the local authority where the reference is a Part VII contract referred to the First-tier Tribunal by the local authority.

(3) A hearing shall be in public unless for special reasons the First-tier Tribunal decides otherwise.

(4) At a hearing—

- (a) the parties shall be heard in such order and, subject to the provisions of these Rules, the procedure shall be such as the First-tier Tribunal shall determine; and
- (b) a party may call witnesses, give evidence on their own behalf and cross-examine any witnesses called by the other party.

(5) The First-tier Tribunal at its discretion may on its own motion, or at the request of the parties or one of them, at any time and from time to time postpone or adjourn a hearing; but it shall not do so at the request of one party only unless, having regard to the grounds upon which and the time at which such request is made and to the convenience of the parties, it deems it reasonable to do so.

(6) The First-tier Tribunal shall give to the parties such notice of any postponed or adjourned hearing as it deems to be reasonable in the circumstances.

(7) If a party does not appear at a hearing, the First-tier Tribunal, on being satisfied that the requirements of this rule regarding the giving of notice of a hearing have been duly complied with, may proceed to deal with the reference upon the representations of any party present and upon the documents and information which they may properly consider.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Documents

66.—(1) Where a regulated tenancy reference is to be subject to a hearing, the First-tier Tribunal shall take all reasonable steps to ensure that there is supplied to each of the parties before the date of the hearing—

- (a) a copy of, or sufficient extracts from, or particulars of, any document relevant to the reference which has been received from the rent officer or from a party (other than a document which is already in the possession of the party or of which the party has previously been supplied with a copy by the rent officer); and
- (b) a copy of any document which embodies results of any enquiries made by or for the First-tier Tribunal for the purposes of that reference, or which contains relevant information in relation to fair rents previously determined for other dwelling-houses and which has been prepared for the First-tier Tribunal for the purposes of that reference.

(2) At any hearing where—

- (a) any document relevant to the reference is not in the possession of a party present at the hearing; and
- (b) that party has not been supplied with a copy of, or relevant extracts from, or particulars of, the document by the rent officer or by the First-tier Tribunal in accordance with the provisions of paragraph (1) of this rule, then unless—
 - (i) the party consents to the continuation of the hearing; or
 - (ii) the First-tier Tribunal consider that the party has a sufficient opportunity of dealing with the document without an adjournment of the hearing,

the First-tier Tribunal shall not consider the document until after it has adjourned the hearing for a period which it considers will afford the party a sufficient opportunity of dealing with the document.

(3) Where a reference is not to be subject to a hearing the First-tier Tribunal shall supply to each of the parties a copy of, or sufficient extracts from, or particulars of, any such document as is mentioned in paragraph (1)(a) of this rule (other than a document excepted from that paragraph) and a copy of any such document as is mentioned in paragraph (1)(b) of this rule, and it shall not reach its decision until it is satisfied that each party has been given a sufficient opportunity of commenting upon any document of which a copy or from which extracts or of which particulars has or have been so supplied, and upon the other party's case.

Inspection of dwelling-house

67.—(1) The First-tier Tribunal may on its own motion and shall at the request of one of the parties (subject in either case to any necessary consent being obtained) inspect the dwelling-house which is the subject of the reference.

(2) An inspection may be made before, during or after the close of the hearing, or at such stage in relation to the consideration of the representations in writing as the First-tier Tribunal shall determine.

(3) The First-tier Tribunal shall give such notice in writing as they deem sufficient of an inspection to the party or parties and shall allow each party and their representative to attend any inspection.

(4) Where an inspection is made after the close of a hearing the First-tier Tribunal may, if it considers that it is expedient to do so on account of any matter arising from the inspection, re-open the hearing; and if the hearing is to be re-opened paragraph (2) of rule 65 shall apply as it applied to the original hearing, save in so far as its requirements may be dispensed with or relaxed with the consent of the parties.

Decisions

68.—(1) The decision of the First-tier Tribunal upon a reference shall be recorded in a document signed by the chairing member (or in the event of that person's absence or incapacity, by another member of the First-tier Tribunal) which shall contain no reference to the decision being a majority (if that be the case) or to any opinion of a minority.

(2) Where the First-tier Tribunal is requested, on or before the giving or notification of the decision, to state the reasons for the decision, those reasons shall be recorded in a document.

(3) This rule shall apply to the document recording the reasons as it applies to the document recording the decision.

(4) The decision of the First-tier Tribunal and a statement of reasons, if any, are to be made publicly available.

Giving of Notices

69. Where any notice or other written matter is required under the provisions of these Rules to be given or supplied by the First-tier Tribunal to a party or parties, it shall be sufficient compliance with the Rules if the notice or matter is sent by post to the party for whom it is intended at their usual or last known address or if that party has appointed an agent to act on their behalf in relation to the reference, to that agent at the address of the agent supplied to the First-tier Tribunal.