

## 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  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 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.
- 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  - (b) consider any representations made in accordance with the notice and not withdrawn.
- 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.

###### *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  - (b) consider any representations made in accordance with the notice and not withdrawn.

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- 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.

*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
  - (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.
- 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.

*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.
- 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.

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- 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.

*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.

*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—
    - (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.

## 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.
- 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

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- (c) the end of the consultation period.
- 16 (1) This paragraph applies where the local housing authority decide to vary a licence.
- (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.

*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.
- 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.

*Refusal to vary a licence*

- 19 Before refusing to vary 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.
- 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.
- 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.

#### *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.
- 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.
- 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.

#### *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.

#### *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.
- 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.
- 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—

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- (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.

*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.

*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.

### 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).

*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.

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- (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.