

SCHEDULES

SCHEDULE 5

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 - (b) consider any representations made in accordance with the notice and not withdrawn.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 - (b) consider any representations made in accordance with the notice and not withdrawn.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 - (b) consider any representations made in accordance with the notice and not withdrawn.

Status: This is the original version (as it was originally enacted).

- 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.

- 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.