

2006 No. 880

LANDS TRIBUNAL, ENGLAND AND WALES

The Lands Tribunal (Amendment) Rules 2006

Made - - - - 20th March 2006

Coming into force in accordance with rule 1(1)

The Lord Chancellor, in exercise of the powers conferred upon him by section 3(6) of the Lands Tribunal Act 1949(a), after consultation with the Council on Tribunals under section 8(1) of the Tribunals and Inquiries Act 1992(b), makes the following Rules:

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the Lands Tribunal (Amendment) Rules 2006 and shall come into force—

- (a) in relation to England, on 28th April 2006;
- (b) in relation to Wales, on the date on which section 231 of the Housing Act 2004(c) comes into force in relation to Wales.

(2) In these Rules a reference to a rule by number alone is a reference to the rule so numbered in the Lands Tribunal Rules 1996(d).

Amendments to Lands Tribunal Rules 1996

2. For rule 5A (Application of Part IIA) substitute—

“5A Part IIA applies to an application to the Lands Tribunal for permission to appeal—

- (a) under section 175 of the Commonhold and Leasehold Reform Act 2002, against a decision of the Leasehold Valuation Tribunal; or
- (b) under section 231 of the Housing Act 2004, against a decision of the residential property tribunal.”.

3.—(1) In rule 5B (Interpretation of Part IIA), before paragraph (1) insert the following paragraph—

“(A) In this Part “first-tier tribunal” means—

- (a) in relation to an appeal under section 175 of the Commonhold and Leasehold Reform Act 2002, the Leasehold Valuation Tribunal; and
- (b) in relation to an appeal under section 231 of the Housing Act 2004, the residential property tribunal.”.

(a) 1949 c. 42; amended by Local Government, Planning and Land Act 1980 (c. 65), Schedule 33, paragraph 3 and Arbitration Act 1996 (c. 23), Schedule 3, paragraph 6(a).

(b) 1992 c.53.

(c) 2004 c.34.

(d) S.I. 1996/1022; relevant amending instruments are S.I. 1997/1965 and 2003/2945.

- (2) In rule 5B(1)—
- (a) for “Leasehold Valuation Tribunal” substitute “first-tier tribunal”
 - (b) for “before that Tribunal” substitute “before the first-tier tribunal or, where the proceedings were determined without a hearing, made representations in writing to that tribunal”.
- 4.—(1) In rule 5C (Application for permission to appeal), for “Leasehold Valuation Tribunal”, wherever it occurs, substitute “first-tier tribunal”.
- (2) In rule 5C(2), for “28 days” substitute “14 days”.
- 5.—(1) In rule 6(1)(b)—
- (a) before “where the appeal is made” insert “subject to paragraph (1B), ”; and
 - (b) omit “by the authority”.
- (2) After rule 6(1) insert—
- “(1A) Paragraph (1B) applies to—
- (a) an appeal under section 175 of the Commonhold and Leasehold Reform Act 2002 against a decision of the Leasehold Valuation Tribunal; or
 - (b) an appeal under section 231 of the Housing Act 2004 against a decision of the residential property tribunal.
- (1B) Subject to rule 35A, if it is satisfied that it is in the interests of justice to do so, the Tribunal may direct—
- (a) that a shorter period be substituted for the period of 28 days in paragraph (1)(b); or
 - (b) that the application to the first-tier tribunal for permission to appeal shall stand as notice under paragraph (1).”.

6.—(1) In rule 7(2), for “The notice of intention to respond” substitute “Subject to paragraph (2B), the notice of intention to respond”.

(2) After rule 7(2) insert—

“(2A) Paragraph (2B) applies to—

 - (a) an appeal under section 175 of the Commonhold and Leasehold Reform Act 2002 against a decision of the Leasehold Valuation Tribunal; or
 - (b) an appeal under section 231 of the Housing Act 2004 against a decision of the residential property tribunal.

(2B) Subject to rule 35A, if it is satisfied that it is in the interests of justice to do so, the Tribunal may direct that a shorter period be substituted for the period of 28 days in paragraph (2).”.

7.—(1) In rule 8(2) and (3), for “Within 28 days of service” substitute “Subject to paragraph (4B), within 28 days of service”.

(2) In rule 8(4), for “Where a party receives” substitute “Subject to paragraph (4B), where a party receives”.

(3) After rule 8(4) insert—

“(4A) Paragraph (4B) applies to—

 - (a) an appeal under section 175 of the Commonhold and Leasehold Reform Act 2002 against a decision of the Leasehold Valuation Tribunal; or
 - (b) an appeal under section 231 of the Housing Act 2004 against a decision of the residential property tribunal.

(4B) Subject to rule 35A, if it is satisfied that it is in the interests of justice to do so, the Tribunal may direct that a shorter period be substituted for the period of 28 days in paragraph (2), (3) or (4).”.

8. After rule 35 insert—

“Shortening of time etc

35A.—(1) In this rule “urgency direction” means a direction under rule 6(1B), 7(2B) or 8(4B).

(2) The Tribunal may make an urgency direction—

- (a) on application of a party, or
- (b) on its own initiative.

(3) Paragraphs (4) to (8) apply, and rule 38 does not apply, where a party applies for an urgency direction

(4) The application shall be made in writing and shall state the title of the proceedings, and the grounds upon which the application is made.

(5) If the application is made with the consent of all parties, it shall be accompanied by consents signed by or on behalf of the parties.

(6) If the application is not made with the consent of every party the applicant shall serve a copy of the proposed application on every other party before it is made and the application shall state that this has been done.

(7) Subject to paragraph (8), the Tribunal shall give notice in writing to the parties other than the applicant inviting them to make representations in writing in relation to the application.

(8) Paragraph (7) does not apply where the Tribunal, having considered the application and the grounds upon which it is made, decides to refuse the application.

(9) Where the Tribunal proposes to make an urgency direction on its own initiative it shall give notice in writing to the parties—

- (a) of the direction which it proposes to make; and
- (b) inviting the parties to make representations in writing in relation to the proposal.

(10) The notice given under paragraph (7) or (9) may specify a date by which representations are to be made.

(11) Before making an urgency direction the Tribunal shall consider all the representations that it has received.”.

Signed

Date 20th March 2006

Cathy Ashton
Parliamentary Under Secretary of State
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules make the following amendments to the Lands Tribunal Rules 1996 (S.I 1996/1022) in relation to appeals from the leasehold valuation tribunal and residential property tribunals.

(1) Part IIA, which deals with applications for permission to appeal to the Lands Tribunal, is amended as a consequence of the commencement of section 231 of the Housing Act 2004, which confers rights to appeal to the Lands Tribunal against decisions of a residential property tribunal, subject to permission.

(2) The time limit for applying to the Lands Tribunal for permission to appeal after a refusal of permission by the leasehold valuation tribunal or residential property tribunal has been reduced from 28 days to 14 days.

(3) The Lands Tribunal have power to direct that the time limits of 28 days for filing notice of appeal, serving notice of intention to respond, or serving a statement of case, or a reply (or copy of a reply) to a statement of case be shortened, or to direct that an application for permission to appeal stand as a notice of appeal. A new rule 35A is inserted providing that the Tribunal may make such a direction (an “urgency direction”) on application by one of the parties according to the normal interlocutory procedures, or by the Tribunal on its own initiative, having given the parties opportunity to make representations.

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