
STATUTORY INSTRUMENTS

1997 No. 1965

LANDS TRIBUNAL

The Lands Tribunal (Amendment) Rules 1997

Made - - - - *8th August 1997*

Coming into force - - *1st September 1997*

The Lord Chancellor, in exercise of the powers conferred on him by section 3 of the Lands Tribunal Act 1949(1), after consultation with the Council on Tribunals in accordance with section 8(1) of the Tribunals and Inquiries Act 1992(2), hereby makes the following Rules—

1. These Rules may be cited as the Lands Tribunal (Amendment) Rules 1997 and shall come into force on 1st September 1997.
2. The Lands Tribunal Rules 1996(3) are amended in accordance with the following provisions of these Rules and any reference to a rule by number alone shall be construed as a reference to the rule so numbered in the 1996 Rules.
3. In rule 2(1), for the definition of ‘appeal against a determination’ substitute—
“‘appeal’ means an appeal against a determination of any question by an authority in respect of whose decision an appeal lies to the Lands Tribunal;”.
4. After Part II (Composition and hearings of the Tribunal) insert Part IIA as follows—

“PART IIA

Applications for Leave to Appeal

Application of Part IIA

5A. Part IIA applies to applications to the Lands Tribunal for leave to appeal against a decision of the Leasehold Valuation Tribunal under section 31A of the Landlord and Tenant Act 1985(4) or section 24A of the Landlord and Tenant Act 1987(5).

(1) 1949 c. 42; section 3 was amended by the Land Compensation Act 1961 (c. 33), Schedule 5; by the Local Government, Planning and Land Act 1980 (c. 65), Schedule 33, paragraph 3, by the Tribunals and Inquiries Act 1992 (c. 53), section 18 and by the Arbitration Act 1996 (c. 23), Schedule 3. Schedule 5 of the Land Compensation Act 1961 was repealed by Part XI of the Schedule to the Statute Law (Repeals) Act 1974 (c. 22).

(2) 1992 c. 53.

(3) S.I.1996/1022.

(4) 1985 c. 70; Section 31A was inserted by the Housing Act 1996 (c. 52), section 83.

(5) 1987 c. 31. Section 24A was inserted by the Housing Act 1996 (c. 52), section 86.

Interpretation

5B.—(1) A respondent to an application for leave to appeal is any party in the proceedings before the Leasehold Valuation Tribunal, other than the applicant, who was present or represented at the hearing before that Tribunal.

(2) A respondent to an application for leave to appeal shall not be a respondent to any subsequent appeal unless he gives notice of intention to respond to the appeal in accordance with rule 7.

Application for leave to appeal

5C.—(1) A person ('the applicant') may only apply to the Lands Tribunal for leave to appeal if he has made an application to the Leasehold Valuation Tribunal for such leave and that application has been refused.

(2) An application for leave must be made to the Lands Tribunal within 28 days of the date on which the decision of the Leasehold Valuation Tribunal to refuse leave to appeal was sent to the applicant.

(3) The application for leave shall contain—

- (a) the name and address of the applicant;
- (b) the name and address of every respondent;
- (c) the grounds of appeal against the decision in respect of which leave to appeal is sought;
- (d) where the applicant is represented, the name, address and profession of the representative; and
- (e) the signature of the applicant or his representative and the date the application was signed.

(4) The application for leave shall be accompanied by—

- (a) a copy of the decision against which leave to appeal is being sought;
- (b) a copy of the decision of the Leasehold Valuation Tribunal refusing leave to appeal;
- (c) the fee payable to the Lands Tribunal in respect of the proposed appeal.

(5) The applicant shall deliver or send the application for leave to appeal to the Lands Tribunal together with sufficient copies for service upon each respondent.

(6) Upon receiving an application for leave to appeal the registrar shall—

- (a) serve a copy of the application on each respondent;
- (b) inform the applicant of the date on which this was done; and
- (c) enter details of the application in the register of appeals.

(7) The registrar shall, when serving a copy of the application, notify each respondent of the time limit, specified by the Tribunal, within which any written representations relating to the application must be made to the Tribunal.

Determination of application

5D.—(1) The Tribunal shall determine an application for leave without a hearing unless it considers that there are special circumstances which make a hearing necessary or desirable.

(2) The registrar shall serve on the applicant and each respondent a notice recording the decision of the Tribunal on the application for leave.

Refusal of leave to appeal

5E. If the Tribunal refuses leave to appeal the registrar shall refund to the applicant the fee paid in respect of the appeal.

Leave to appeal

5F.—(1) If the Tribunal grants leave to appeal it may do so on such conditions as it thinks fit including conditions relating to the costs of the appeal.

(2) The registrar shall note in the register of appeals that the appeal is proceeding unless the applicant notifies him, within 14 days of the date of service of the notice recording the decision to grant leave, that he does not wish to proceed with the appeal.

(3) The registrar shall serve notice on each respondent that the appeal is proceeding with details of the number of the appeal entered on the register which shall constitute the title of the appeal.

Application of Part 111 (Appeals)

5G. Where an appeal proceeds following the grant of leave to appeal under this Part—

- (a) rule 6 shall not apply to the appeal; and
- (b) rule 7 shall apply as if the reference to the notice of appeal was a reference to the notice that the appeal is proceeding referred to in rule 5F(3).

Application of Part V111 (General Procedure)

5H. In Part V111, reference to an appeal shall include reference to an application for leave to appeal under this Part.”

5. For rule 6(1) substitute—

“(1) An appeal to the Lands Tribunal shall be made by sending to the registrar a written notice indicating an intention to appeal so that it is received by the registrar—

- (a) within 28 days of the date on which the decision appealed against (‘the disputed decision’) was sent to the applicant, or within such other time as is prescribed by the enactment conferring the right to appeal; or
- (b) where the appeal is made following the grant of leave to appeal by the authority, within 28 days of the date on which the decision granting leave to appeal was sent to the applicant.”

6. For rule 6(4) substitute—

“(4) The appellant shall attach to the notice of appeal—

- (a) a copy of the disputed decision; and
- (b) where the appeal is made following grant of leave to appeal by the authority, a copy of the decision granting leave to appeal; and
- (c) where the appeal relates to a rating appeal, a copy of the proposal or determination that was the subject of the proceedings which led to the disputed decision.”

7. In rule 6(6)(a), for ‘Registrar of Appeals’ substitute ‘register of appeals’.

8. For rule 26 substitute—

“Application of Arbitration Act 1996(6)

26. Unless otherwise agreed by the parties, the following provisions of the Arbitration Act 1996 shall apply to proceedings under this Part, in addition to those set out in rule 32—

- (a) section 8 (whether agreement discharged by death of a party);
- (b) section 9 (stay of legal proceedings);
- (c) section 10 (reference of interpleader issue to arbitration);
- (d) section 12 (power of court to extend time for beginning arbitral proceedings, etc.);
- (e) section 23 (revocation of arbitrator’s authority);
- (f) section 57 (correction of award or additional award) in so far as it relates to costs and so that the reference to ‘award’ shall include a reference to any decision of the Lands Tribunal;
- (g) section 60 (agreement to pay costs in any event).

26A. The person referring the matter to the Lands Tribunal shall, at the time the reference is made, supply the Lands Tribunal with copies of the arbitration agreement and any other written agreement relevant to the manner of arbitration.”.

9. For rule 32 substitute—

“Application of Arbitration Act 1996

32. The following provisions of the Arbitration Act 1996 shall apply to all proceedings as they apply to an arbitration—

- (a) section 47 (awards on different issues, etc.), as if the words ‘unless otherwise agreed by the parties’ were omitted from subsection (1) and so that the reference to ‘award’ shall include a reference to any decision of the Lands Tribunal;
- (b) section 49 (interest) subject to any enactment that prescribes a rate of interest;
- (c) section 57(3) to (7) (correction of award or additional award).”.

10. In rule 46(2)—

- (a) after ‘the registrar’ insert ‘or the Tribunal’; and
- (b) before ‘own motion’ insert ‘or its’.

11. In rule 50(5)—

- (a) for ‘The registrar shall send’ substitute ‘The Registrar shall serve’; and
- (a) for ‘to every party’ substitute ‘on every party’.

12. The substitution of rules 26, 26A and 32 shall only apply to proceedings commenced in the Lands Tribunal on or after the coming into force of these Rules.

8th August 1997

Irvine of Lairg, C.

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Lands Tribunal Rules 1996. The Housing Act 1996 (c. 52) amended the Landlord and Tenant Act 1985 and the Landlord and Tenant Act 1987 to confer new jurisdiction on the Leasehold Valuation Tribunal with a right of appeal to the Lands Tribunal. Leave to appeal is to be required, and these Rules make provision for the procedure on an application for leave to appeal.

The Lands Tribunal Rules apply certain provisions of the Arbitration Acts, and these Rules also amend the 1996 Rules to take into account the coming into force of the Arbitration Act 1996.

The opportunity has been taken to make some minor drafting corrections to the 1996 Rules.