
STATUTORY INSTRUMENTS

2010 No. 2600

**The Tribunal Procedure (Upper
Tribunal) (Lands Chamber) Rules 2010**

PART 6

**Applications under section 84 of the Law of Property Act 1925
(discharge or modification of restrictive covenants affecting land)**

Interpretation

31. In this Part—

“application land” means the land to which the application relates;

“section 84” means section 84 of the Law of Property Act 1925; and

“restriction” means a restriction, arising under a covenant or otherwise, as to the user of or building on any freehold land or any leasehold land held for a term of more than 40 years of which at least 25 have expired.

Method of making application

32.—(1) An application under section 84 is made by sending or delivering to the Tribunal an application which must be signed and dated and must state—

- (a) the name and address of the applicant and, if represented,—
 - (i) the name and address of the applicant's representative; and
 - (ii) the professional capacity, if any, in which the applicant's representative acts;
- (b) an address where documents for the applicant may be sent or delivered;
- (c) the address or description of the application land;
- (d) the nature of the applicant's interest in the application land;
- (e) the name of any other person with an interest in the application land and the nature of their interest;
- (f) the address or description of the land which is subject to the restriction;
- (g) the address or description of the land which, and the identity of any person (if known) who has the benefit of the restriction, or any person who the applicant believes may have such benefit and the reasons for that belief;
- (h) the ground or grounds in section 84 on which the applicant relies and the reasons for considering that that ground or those grounds apply;
- (i) whether the applicant is applying to discharge or modify the restriction, in which case details of the discharge or modification sought must also be provided; and
- (j) details of any planning permission in respect of the application land that has been applied for, granted or refused within the 5 years preceding the application.

(2) The applicant must provide with the application—

- (a) a copy of the instrument imposing the restriction and any attached plan coloured in accordance with the original or, if the instrument cannot be found, other documentary evidence of the restriction;
- (b) a plan identifying—
 - (i) the application land;
 - (ii) if ascertainable, any additional land which is subject to the restriction; and
 - (iii) the land which has the benefit of the restriction; and
- (c) the fee payable to the Tribunal.

(3) An application may be made jointly by two or more persons if the land in which they are interested is the same land or different parts of the land affected by the restriction.

Notices to be given

33.—(1) Upon receipt of an application, the Tribunal must send written directions to the applicant specifying—

- (a) what notices are to be given to persons who appear to be entitled to the benefit of the restriction;
- (b) the time within which such notices are to be given; and
- (c) whether such notices should be given by advertisement or otherwise.

(2) The notices must require any person who claims to be entitled to the benefit of the restriction, who objects to the discharge or modification of it proposed by the application, or who claims compensation for such modification or discharge, to send to the Tribunal and to the applicant notice of any objections they may have and of the amount of compensation they claim, if any.

(3) The notices to be given under paragraph (1) must be given by the applicant who, as soon as reasonably practicable after the end of the period for sending or delivering a notice of objection in rule 34(1) (notice of objection), must certify in writing to the Tribunal that directions as to the giving of those notices have been complied with.

Notice of objection

34.—(1) Notice of an objection to an application and any claim for compensation must be in writing and must be sent or delivered to the Tribunal and the applicant so that it is received by the Tribunal within 1 month from the giving of the notices referred to in rule 33(1) (notices to be given).

(2) The notice of objection must be signed and dated and must state—

- (a) the name and address of the objector and, if represented,—
 - (i) the name and address of the objector's representative; and
 - (ii) the professional capacity, if any, in which the objector's representative acts;
- (b) an address where documents for the objector may be sent or delivered;
- (c) the basis upon which the objector claims to be entitled to the benefit of the restriction;
- (d) any ground of objection; and
- (e) whether the objector wants the case to be determined at a hearing.

Admission of objectors

35.—(1) Within 14 days of receipt of a notice of objection, if the applicant does not accept that the objector is entitled to the benefit of the restriction, the applicant must send or deliver to the Tribunal

and the objector a notice stating why the applicant does not accept that the objector is entitled to the benefit of the restriction.

(2) Any objector to whom the applicant does not send or deliver a notice under paragraph (1) shall be admitted to oppose the application.

(3) An objector who receives a notice from the applicant under paragraph (1) must within 14 days send or deliver to the Tribunal and the applicant evidence of their entitlement to the benefit of the restriction.

(4) Within 14 days of receipt of evidence under paragraph (3) the applicant must inform the Tribunal and the objector whether the applicant accepts that the objector is entitled to the benefit of the restriction.

(5) As soon as practical after receipt of a notice under paragraph (4) that the applicant does not accept the evidence of entitlement, but after giving to the applicant and the objector the opportunity to be heard, the Tribunal must determine whether the objector should be admitted to oppose the application and notify the applicant and the objector of its determination.

(6) Where an objector who has not been admitted to oppose the application is dissatisfied with the determination of the Tribunal under paragraph (5) and notifies the Tribunal within 14 days of the date of that determination that the objector has applied to the court under subsection (2) of section 84 to declare who, if anyone, is entitled to enforce the restriction, the Tribunal must stay the proceedings until that application is determined or withdrawn.

(7) Following any declaration made by the court as to who, if anyone, is entitled to enforce the restriction, the Tribunal may set aside a determination made under paragraph (5) and make a new determination.

Statements of case

- 36.** If an objector has been admitted to oppose the application, the Tribunal must direct either—
- (a) that the applicant and each objector, within such periods as are stated in the direction, send or deliver to the Tribunal and each other party a statement of case; or
 - (b) that the application and each notice of objection shall stand as the statement of case of the party that made the application or gave such notice.

Power to direct additional notices

37. If it appears to the Tribunal at any time before the determination of the application that any person who has not received notice of the application otherwise than by advertisement should have received specific notice, the Tribunal may require the applicant to give notice to that person and give such case management directions as may be appropriate.

Enquiries of local authorities

38. If before or at the hearing of an application the Tribunal considers that enquiries should be made at any local authority within whose area the land affected by the restriction is situated, the Tribunal may direct those enquiries to be made and give such case management directions as may be appropriate.

Orders where compensation is payable

39. Where the Tribunal orders the discharge or modification of a restriction subject to the payment of compensation—

- (a) the discharge or modification shall not take effect until the Tribunal has endorsed on the order that the compensation has been paid; and
- (b) the Tribunal may direct that the order shall cease to have effect if the compensation is not paid within a specified time.

Changes to legislation:

There are currently no known outstanding effects for the The Tribunal Procedure (Upper Tribunal) (Lands Chamber) Rules 2010, PART 6.