
STATUTORY INSTRUMENTS

2013 No. 1169

**The Tribunal Procedure (First-tier
Tribunal) (Property Chamber) Rules 2013**

PART 5

Special procedures

CHAPTER 1

Land registration cases: requirements relating to court proceedings, registrar etc

Consideration of direction to commence court proceedings under section 110(1) of the 2002 LR Act

37. Before the Tribunal decides to direct a party to commence court proceedings under section 110(1) of the 2002 LR Act, the parties may make representations as to—

- (a) whether the Tribunal should make such a direction;
- (b) which party should be directed to commence court proceedings;
- (c) the time within which court proceedings must commence; and
- (d) the questions the court should determine.

Notification relevant to related court proceedings

38.—(1) This rule applies where a party—

- (a) is directed to commence court proceedings by the Tribunal under section 110(1); or
- (b) commences, or has commenced, court proceedings which concern or relate to the matter before the Tribunal.

(2) The party referred to in paragraph (1) must provide to the Tribunal and all other parties—

- (a) written notice stating—
 - (i) that court proceedings have been issued;
 - (ii) the date of issue of the court proceedings;
 - (iii) the names and any known addresses of the parties to the court proceedings;
 - (iv) the name of the court at which the court proceedings are pending;
 - (v) the case number allocated to the court proceedings; and
 - (vi) the way and the extent to which the court proceedings concern or relate to the matter before the Tribunal;
- (b) within 14 days after the date of any decision on any application for an extension of time, a copy of that decision; and
- (c) within 14 days after the date on which the matter before the court is finally disposed of, a copy of the final court order.

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(3) Where the party has been directed to commence proceedings under section 110(1), the written notice to which paragraph (2)(a) refers must be provided within 14 days after the date of issue of the court proceedings.

(4) Where the party commences or has commenced court proceedings otherwise than in consequence of a direction made by the Tribunal, the written notice to which paragraph (2)(a) refers must be provided within 14 days after the date of commencement of the court proceedings or, if later, within 7 days after the date of provision of the written notice in accordance with rule 28(3) that the matter has been received by the Tribunal.

(5) In this rule—
“the date on which the matter before the court is finally disposed of” means the earliest date on which the court proceedings relating to the matter (including any court proceedings on or in consequence of an appeal) have been determined and any time for appealing or further appealing has expired.

(6) In this rule and in rule 39—
“the final court order” means the order made by the court that records the court's final determination (on appeal or otherwise).

Stay of Tribunal proceedings following a direction relating to the whole or part of a matter

39.—(1) This rule applies where the Tribunal has directed a party under section 110(1) of the 2002 LR Act to commence court proceedings for the court's decision on the whole or part of a matter.

(2) Upon receipt by the Tribunal of notice under rule 38(2)(a) that court proceedings have been issued, the Tribunal proceedings, or the relevant part of those proceedings, are automatically stayed pending the final court order.

(3) Subject to sub-paragraph (4) and any question of costs, once the Tribunal has received a copy of the final court order in accordance with rule 38(2)(c), unless the court directs otherwise, the Tribunal proceedings, or the part of the matter, are to be regarded as stayed.

(4) The Tribunal may make a decision, including lifting a stay under this rule, either with or without a hearing and either with or without giving prior notice to the parties if—

- (a) such a decision is necessary, in addition to the final court order, to implement the final court order; and
- (b) the Tribunal would have had the power to make such a decision if the Tribunal had made a decision in relation to the proceedings.

(5) Where the stay referred to in paragraph (2) relates only to part of the matter, the Tribunal may stay the proceedings in relation to any other part of the matter before the Tribunal pending the final court order.

(6) While the court proceedings are still pending, the party directed to commence court proceedings must notify the court of any decision made by the Tribunal within 14 days after the date on which it receives the Tribunal decision.

Requirements directed to the registrar

40.—(1) The Tribunal must send written notice to the registrar of any direction which requires the registrar to take action.

(2) Where the Tribunal has made a decision, that decision may include a direction to the registrar to—

- (a) give effect to the original application in whole or in part as if the objection to that original application had not been made; or
- (b) cancel the original application in whole or in part.

(3) A direction to the registrar under paragraph (2) must be in writing, must be sent or delivered to the registrar and may include—

- (a) a condition that a specified entry be made on the register of any title affected; or
- (b) a direction to reject any future application of a specified kind by a named party to the proceedings—
 - (i) unconditionally; or
 - (ii) unless that party satisfies specified conditions.

CHAPTER 2

Agricultural land and drainage cases relating to succession

Succession cases

41.—(1) This rule applies to an application made under section 39 or section 53 of the 1986 Act.

(2) In proceedings under section 39, an applicant who opposes or intends to oppose any other application under that section may include in their own notice of application, or in a separate response, the following additional information—

- (a) the reasons why they oppose or intend to oppose that other application;
- (b) a statement whether they dispute that applicant's claim to be a designated applicant and, if so, why;
- (c) a claim to be a more suitable applicant than any other and, if so, why;
- (d) a statement whether or not the applicant has agreed with one or more other applicants or intending applicants to request the landlord's consent to a direction entitling them to a joint tenancy of the holding or might be willing to do so.

(3) If the landlord does not respond to an application within the time allowed, the landlord is not entitled to dispute any matter alleged in the application but—

- (a) in the case of an application under section 39 or section 53, the landlord is entitled to give the landlord's views on the suitability of the applicant; and
- (b) in the case of an application under section 39, the landlord may make an application under section 44 of the 1986 Act for consent to the operation of a notice to quit.

Procedure at hearing in case of multiple applicants where designation is claimed

42.—(1) In proceedings under section 39 of the 1986 Act, the Tribunal must (in such sequence as the Tribunal considers appropriate) at a hearing consider and determine the validity of each applicant's claim, if any, to be a designated applicant, giving all other parties and all other applicants for succession the opportunity to be heard.

(2) If the Tribunal determines that any such claim is valid, the Tribunal must then hear that applicant's application as if that applicant were the only applicant and, if the Tribunal determines that the applicant is a suitable person to become the tenant of the holding, the Tribunal must dismiss all other applications under section 39 of the 1986 Act in respect of the same holding.

(3) If the Tribunal determines that the designated applicant is not a suitable person to become a tenant of the holding, the Tribunal must dismiss the application.

Multiple applications under the 1986 Act where there is no designated applicant

43.—(1) The Tribunal must, subject to any direction by the Tribunal to the contrary, consider any issue of eligibility or suitability by applying the 1986 Act in the following sequence—

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- (a) any question arising under section 41(3) of the 1986 Act (treatment as eligible person);
 - (b) any question of eligibility under section 39(2) of the 1986 Act, as applied by section 39(3) of that Act;
 - (c) any question of suitability under section 39(2) of the 1986 Act, as applied by section 39(3) of that Act;
 - (d) any exercise of discretion under section 39(9) of the 1986 Act (direction for joint tenancy);
 - (e) any question of relative suitability under section 39(6) of the 1986 Act;
 - (f) any question arising under section 39(10) of the 1986 Act (tenancy of part of holding);
 - (g) any question arising under section 44 of the 1986 Act (consent to operation of notice to quit).
- (2) Before giving a direction under section 39(9) of the 1986 Act, the Tribunal must—
- (a) ask the landlord if the landlord consents to the giving of a direction; and
 - (b) consider any representations made by other suitable applicants.
- (3) The landlord will be deemed not to consent to the giving of a direction under section 39(9) of the 1986 Act if the landlord does not respond to the Tribunal within the period specified by the Tribunal.
- (4) Before giving a direction under section 39(10) of the 1986 Act, the Tribunal must ask each applicant whether that applicant agrees to such a direction being given.

CHAPTER 3

Residential property cases: urgent cases, interim orders, etc

Urgent IMO authorisation applications

44.—(1) This rule applies when a local housing authority makes an urgent IMO authorisation application.

(2) If it appears to the Tribunal, on the basis of information accompanying the application that the exceptional circumstances mentioned in paragraph (3) exist, it must order that an urgent hearing be held and must follow the procedure set out in rule 46.

(3) The exceptional circumstances are that—

- (a) there is an immediate threat to the health and safety of the occupiers of the house or to persons occupying or having an estate or interest in any premises in the vicinity of the house; and
- (b) by making the IMO as soon as possible (together where applicable with such other measures as the local housing authority intends to take) the local housing authority will be able to take immediate appropriate steps to arrest or significantly reduce the threat.

Urgent sale or gift of a mobile home applications

45.—(1) This rule applies when an applicant requests that the Tribunal urgently—

- (a) consider an application under paragraph 8(1E) (sale of mobile home) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act for the purposes of paragraph 8(1) or 9(1) (sale or gift of mobile home) of that Chapter; or
- (b) determine whether it was reasonable for the owner not to approve a person for the purposes of paragraph 8(1) or 9(1) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act.

(2) If the Tribunal is satisfied, on the basis of information accompanying the application, that the exceptional circumstances mentioned in paragraph (3) exist it must follow the procedure set out in rule 46.

(3) The exceptional circumstances are that—

(a) the site owner either—

(i) has not responded to the notice served on the site owner to approve a person under paragraph 8(1A) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act for the purposes of paragraph 8(1) or 9(1) of that Chapter; or

(ii) did not give approval for the purposes of paragraph 8(1) or 9(1) of Chapter 2 of Part 1 of Schedule 1 to the 1983 Act and the applicant considers that the site owner's refusal was unreasonable;

(b) the person whom the applicant has asked the site owner to approve is ready, willing and able to become the occupier of the mobile home;

(c) the Tribunal is satisfied that, subject to approval being given by the site owner, the purchase or gift of the mobile home and its assignment to that person will be completed with minimum delay; and

(d) the applicant has provided evidence indicating that—

(i) the site owner has previously unreasonably withheld approval under paragraph 8 or 9 Chapter 2 of Part 1 of Schedule 1 to the 1983 Act in respect of a mobile home on a protected site belonging to that site owner; or

(ii) a person has previously declined to proceed with the purchase or gift of a mobile home on the protected site on which the mobile home is situated as a result of the actions or words of the site owner.

Procedure in urgent cases

46.—(1) In cases to which this rule applies, the Tribunal must as soon as practicable notify the parties and each interested person whose name and address have been notified to it—

(a) that the application is to be dealt with as a matter of urgency;

(b) why it appears to the Tribunal that the exceptional circumstances exist;

(c) of any requirement to be satisfied by a party before the hearing; and

(d) the date on which the hearing will be held.

(2) The date of the hearing must be not more than 10 days after the date that notification of the hearing is sent.

(3) At the hearing the Tribunal may, if it is not satisfied that the exceptional circumstances exist, adjourn the hearing and give such directions as it considers appropriate.

Interim orders

47.—(1) This rule applies where an enactment relating to a residential property case allows the Tribunal to make an interim order—

(a) suspending, in whole or in part, the effect of any decision, notice, order or licence which is the subject matter of proceedings before it; or

(b) for the time being granting any remedy which it would have had power to grant in its final decision.

(2) The Tribunal must provide notice of the order to each party as soon as reasonably practicable after making an interim order and, except in the case of an order made with the consent of all parties, giving reasons for the order.

(3) A party may request that the interim order be varied or set aside, if the Tribunal has made an interim order without first giving the parties the opportunity to make representations.

(4) Any such request may be made—

- (a) orally at a hearing;
- (b) in writing; or
- (c) by such other means as the Tribunal may permit.

(5) This rule does not apply to an application for an urgent IMO authorisation or sale or gift of a mobile home.

Detrimental effect of mobile homes on the amenity of the site applications

48.—(1) This rule applies if a site owner applies for a determination under paragraph 5A(2)(a) of Chapter 2, or paragraph 6(1)(a) of Chapter 4, of Part 1 of Schedule 1 to the 1983 Act that, having regard to its condition, the mobile home is having a detrimental effect on the amenity of the site.

(2) If, at a hearing, it appears to the Tribunal that the mobile home is having a detrimental effect on the amenity of the site, but that if certain repairs to the mobile home were carried out, the mobile home would cease to have such a detrimental effect, it must—

- (a) inform the site owner and the occupier of the repairs which should be carried out;
- (b) invite both the occupier of the mobile home and the site owner to provide information in relation to those repairs as to—
 - (i) the time needed to carry them out; and
 - (ii) the cost of carrying them out; and
- (c) invite the occupier of the mobile home to indicate whether or not the occupier would be willing to carry out those repairs.

(3) The Tribunal, having regard to information given under paragraph (2)(b) and (c) must either—

- (a) make a determination under paragraph 5A(2)(a) of Chapter 2, or paragraph 6(1)(a) of Chapter 4, of Part 1 of Schedule 1 to the 1983 Act; or
- (b) if paragraph 5A(4) of Chapter 2, or paragraph 6(2) of Chapter 4, of Part 1 of that Schedule applies, make an interim order requiring the occupier of the mobile home to carry out such repairs within such time as the Tribunal considers reasonable.

(4) Upon making an interim order under paragraph (3)(b), the Tribunal must adjourn the hearing and set a further hearing date for within 7 days from the date by which the specified repairs must be carried out.

(5) The Tribunal must request each of the site owner and the occupier to state, no later than 4 days before the date of the further hearing, whether (in their opinion) the specified repairs have been completed.

(6) When setting a further hearing date under paragraph (4), the Tribunal must—

- (a) give the parties not less than 14 days' notice of the hearing date; and
- (b) invite both the site owner and the occupier to indicate, no later than 4 days before the date of the hearing, whether in their opinion the repairs described in the order have been completed.

(7) At the further hearing—

- (a) if the Tribunal has received notification from each of the occupier and the site owner that the repairs ordered under paragraph (3)(b) have been completed, it must dismiss the application;
 - (b) if the Tribunal has not received such notification it must request the parties present to make representations as to the extent of repairs left to be carried out and the time needed to carry them out; and
 - (c) having considered any such representations, it must either make a further interim order under paragraph (3)(b) or make a determination under paragraph 5A(2)(a) of Chapter 2, or paragraph 6(1)(a) of Chapter 4, of Part 1 of Schedule 1 to the 1983 Act.
- (8) If, before the date of the further hearing, the Tribunal is satisfied that the repairs have been completed, the Tribunal may dispense with the need for a further hearing and may dismiss the application.

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