EXPLANATORY MEMORANDUM TO

THE RESIDENTIAL PROPERTY TRIBUNAL (FEES) (ENGLAND) REGULATIONS 2006

2006 No. 830

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Residential Property Tribunal (Fees) (England) Regulations ("the Fees Regulations") set out the fees that are payable where specified appeals and applications are made to a residential property tribunal ("RPT").

2.2 The Residential Property Tribunal Procedure (England) Regulations ("the Procedure Regulations") set out the procedure to be followed by RPTs in determining applications and appeals in England under the Housing Act 2004 ("the Act") or Part 9 of the Housing Act 1985 ("the 1985 Act").

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The Secretary of State has previously exercised the power to make procedure regulations for RPTs in making The Residential Property Tribunal (Right to Buy Determinations) Procedure (England) Regulations 2005, which came into force on 4th July 2005, and which apply to applications under paragraph 11 of Schedule 5 to the 1985 Act. No fees are payable in respect of such applications.

4. Legislative Background

4.1 The Act transfers jurisdiction from the county court to RPTs where proceedings are brought in relation to demolition orders under sections 269, 272 and 317 of the 1985 Act, and under section 318 of that act where a person applies for authorisation to enter land which is harmful to health and safety to carry out works.

4.2 The 2004 Act also gives jurisdiction to RPTs to deal with appeals and applications in relation to –

- housing conditions under Part 1 of the 2004 Act;
- licensing of HMOs under Part 2 of the 2004 Act;
- selective licensing of other residential accommodation under Part 3 of the 2004 Act; and
- management orders under Part 4 of the 2004 Act.

4.3 RPTs are rent assessment committees which are constituted for the purpose of exercising any jurisdiction conferred upon RPTs. Rent assessment committees are constituted in accordance with Schedule 10 to the Rent Act 1977.

4.4 Under Schedule 13 to the 2004 Act the appropriate national authority[1] may make regulations governing the procedures of RPTs. The power to make regulations includes the power to make provision requiring the payment of fees in respect of applications or appeals to tribunals[2].

4.5 The Fees Regulations set the fee payable for certain applications and appeals. The Fees Regulations also provide for the payment of fees, the waiver of fees where the appellant/applicant, or his partner, is in receipt of certain benefits, allowances and credits. They also give power to a RPT to require a party to proceedings to reimburse any other party to the proceedings, the whole or part of any fees paid.

4.6 Section 250(2)(a) of the Act permits the Secretary of State, in exercising the power to make regulations, to make different provision for different cases. Use has been made of this power in the Procedure Regulations by giving RPTs the discretion to deal urgently with applications by LHAs for authorisation of interim management orders where there is an immediate threat to health and safety.

5. Extent

5.1 These instruments apply to certain appeals and applications which are made in relation to a residential property tribunal in relation to premises in England.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The Act requires and empowers a Local Housing Authority ("LHA") to determine an individual's rights and obligations in relation to residential premises. In order to comply with article 6 of the Human Rights Act 1998 it is necessary to provide a system, established by law, which allows for appeals against such determinations to be made to an independent and impartial tribunal. In deciding on an appropriate appeal body, the options were to either give jurisdiction for appeals and applications under the Housing Act 2004 to the county court, or to establish a dedicated tribunal, the RPT.

7.2 In 1999 the Government consulted on proposals to license Houses in Multiple Occupation (HMOs)[3]. As part of that consultation by the Office of the Deputy Prime Minister ("ODPM"), views were sought on whether licensing appeals should continue to be determined by the county court, or by some other body, such as a dedicated tribunal. The ODPM also sought views on whether the amount of costs the appellate body is able to award should be subject to limitation. Whilst there were 579 respondents to the consultation paper, including local authorities, landlord and tenants and their representative bodies and other professional bodies and interested groups, very few responded to these specific questions. In respect of the first issue the majority of those who did address this question (17.8% of the total respondents)

[1] Under section 261 of the 2004 Act the appropriate national authority means in relation to England, the Secretary of State and in relation to Wales, the National Assembly for Wales.
[2] *See* paragraph 11 of Schedule 13 to the 2004 Act.
[3] Licensing of Houses in Multiple Occupation - England, DETR Consultation Paper, April 1999

favoured a move to an "informal" tribunal, whereas some (11.1% of the total respondents) thought that appeals should be dealt with by a new independent housing tribunal, and others (7.4% of the total respondents) favoured the magistrates court. Only a few (5.4% of the total respondents) thought appeals should be dealt with in the county court.

7.3 In March 2003 a draft Housing Bill[4] was published for consultation. One of the specific questions raised was whether an appeal against an LHAs' action, under the provisions which now form Parts 1 to 4 of the Act, should be dealt with in the county court or by a dedicated tribunal, such as the RPT. 41 consultees responded to this specific question of whom 54 % favoured a tribunal, 42% the county court and 4% both. Landlords, residents and professional bodies broadly supported the use of tribunals (with 71% in favour). Local authority respondents were more split with 52% advocating the county court.

7.4 The ODPM also undertook a separate consultation with the Residential Property Tribunal Service (RPTS), the Council on Tribunals, DCA and the Law Commission, on the proposal to set up a dedicated tribunal which would fall within the remit of the RPTS. No objections to the proposal were made by these consultees. The RPTS, which is a non departmental public body ("NDPB") sponsored by the ODPM, is an umbrella organisation which administers rent assessment committees. It has also been consulted throughout the drafting of the Fees Regulations and the Procedure Regulations.

7.5 Having considered the consultation responses, it was decided that RPTs as dedicated tribunals was the preferred option. In particular the benefits of RPTs were seen to be the experience of panel members on property matters, the additional opportunities to inspect properties subject to proceedings before it, and, the general view that the tribunal system is seen to be more informal and flexible in terms of procedure. As an example of this flexibility, the tribunal will normally only hold a hearing if a party requests one; otherwise the appeal will be dealt with using the written representations the RPT receives. The informal and flexible approach in determining appeals and applications means they may be disposed of more quickly than they would through the county court, and while legal representation will not be precluded the informal nature of a tribunal is intended to ensure that this will not be regarded as essential. In addition, an RPT may only order a party to pay another party's costs in limited circumstances, to a maximum of £500. This enables appellants to exercise their rights to appeal and local authorities to defend without fear of occurring substantial legal costs, and may also encourage parties to represent themselves in proceedings rather than rely on legal representation.

7.6 The Fees Regulations provide that in order to make certain appeals or applications to the RPT a fee will be payable. The fee has been set at £150, which mirrors the fee payable for initial applications to the county courts for non-monetary appeals. Annex A lists the appeals and applications for which a standard fee of £150 applies.

7.7 Fees will be charged per application, so if there is an appeal against three decisions, three fees will be payable. There will however be certain circumstances where one fee will be payable. These are where the two appeals are closely related,

[4] Housing Bill - Consultation on draft legislation, ODPM, March 2003

for example an appeal against the refusal to grant a licence and an appeal against the making of an Interim Management Order on the same property.

7.8 There are circumstances where no fee is payable. It is inappropriate for a fee to be charged when an LHA is exercising their duties and powers under the Housing Act 2004. Fees are also not payable when persons are trying to enforce rights granted to them by that Act. The appeals and applications which do not attract a fee are listed in Annex B.

7.9 The procedure regulations set out the rules that are to apply in relation to applications and appeals to an RPT. In particular the regulations:

- specify the particulars that must accompany an appeal or application to an RPT;
- specify who should be named as the respondent to an appeal or application;
- set out the rules for responding to such applications and appeals , including how interested persons will be given information about them;
- provide for the case management of applications and appeals;
- specify that appeals and applications are to be dealt with by a paper determination, unless one of the parties requests, or an RPT decides, that the case should be dealt with at an oral hearing;
- allow the tribunal to make interim orders;
- set out the rules relating to oral hearings;
- provide that two or more related appeals or applications can be determined together;
- provide that a party must be given the opportunity to make representations before being ordered to pay costs to another party;
- specify that the tribunal's decision must be in writing (including its reasons);
- set out the rules for seeking permission to appeal to the Lands Tribunal; and
- set out special rules applying to urgent applications by LHAs for authorisation of Interim Management Orders where there is an immediate threat to health and safety.

8. Impact

8.1 A Regulatory Impact Assessment is attached to this memorandum.

8.2 There is no impact on the public sector as the regulations do not create extra burdens for local authorities. As indicated in paragraph 7.4, the RPTS is a NDPB which is sponsored and financed by the ODPM. It is responsible for committees which exercise certain appellate jurisdictions relating to private sector housing matters; this will include RPTs. The RPTS has indicated that the estimated number of appeals and applications over a five year cycle can be dealt with within its existing budget of £10m per annum, as funded by the ODPM. RPTS estimates it will deal with the following over 5 years:

- 4, 000 HHSRS appeals and applications (Part 1 of the Act);
- 16,800 licensing related appeals and applications (Parts 2,3 & 4); and

- 5,300 Empty Dwelling Management Order application and appeals.

9. Contact

Robert Skeoch at the Office of the Deputy Prime Minister Tel: 0207 944 3568 or e-mail robert.skeoch@odpm.gsi.gov.uk can answer any queries regarding the instrument.

Annex A: Applications and appeals where a fee is payable (see paragraph 7.6)

(References are to provisions in the Housing Act 2004 unless otherwise shown)

- Appeal under section 22(9) – against refusal to approve use of premises subject to prohibition order.
- Appeal under section 62(7) – HMO licensing: against refusal to grant a temporary exemption notice.
- Appeal under section 86(7) – Selective licensing: against refusal to grant a temporary exemption notice, selective licensing.
- Application under section 126(4) – effect of management orders: adjustment of rights in relation to furniture.
- Application under section 138 – compensation payable to third parties where interim EDMO in force.
- Appeals under Schedule 1 - paragraphs 10 and 13 – appeal against improvement notice and appeal against refusal to revoke or vary an improvement notice.
- Appeals under Schedule 2 – paragraphs 7 and 9 – appeal against prohibition order and appeal against refusal to revoke to vary a prohibition order.
- Appeal under Schedule 3 – paragraph 11 – appeal against a demand for recovery of expenses.
- Appeals under Schedule 5 – paragraphs 31 and 32 – appeal against refusal or grant of licence and appeal against decision or refusal to vary or revoke licence.
- Appeals under Schedule 6 – paragraphs 24 or 28 - appeals against the making, and terms, of interim and final management orders and appeals against decision or refusal to vary or revoke such orders.
- Appeal under Schedule 6- paragraph 32- appeal by third party against refusal to pay compensation or as to the amount of compensation payable where an interim or final management order is in force.

- Appeals under Schedule 7 – paragraphs 26(1), 30 and 34(2) – appeal against making of final EDMO, or terms of interim or final EDMO; appeal against decision or refusal to vary or revoke interim or final EDMO ; and appeal against decision not to pay, or amount to be paid, compensation under section 138 .

- Appeal under section 269(1) of the Housing Act 1985 – appeal against a demolition order.

Application under section 318(1) of the Housing Act 1985 – application to authorise works on unfit premises

Annex B: Application and appeals that do not attract a fee (see paragraph 7.8)

(References are to provisions in the Housing Act 2004 unless otherwise shown)

- Application under section 34(2) – for order determining lease where premises subject to prohibition order.

- Appeal under section 45(1) or (2) – against emergency action under Part 1.

- Applications under sections 73(5) and 74(2) – HMO licensing: rent repayment order.

- Applications under sections 96(5) and 97(2) – Selective licensing; rent repayment orders.

- Applications under section 102(4) and (7) – authorisation to make an interim management order.

- Application under section 105(10) – IMO to continue in force.

- Application under section 110(7) – declaration of financial arrangements while IMO is in force.

- Application under section 114(7) – FMO to continue in force.

- Application under section 120(1) – enforcement of management scheme by relevant landlord.

- Application under section 130(9) – determination of relevant landlord for section 130.

- Application under section 133 – authorisation to make an interim EDMO.

- Appeal under section 143 – appeal against overcrowding notices.

- Appeal under section 144(2) – appeal against refusal to revoke or vary an overcrowding notice.

- Appeal under section 255(9) – appeal against HMO declaration.

- Appeal under section 256(4) – appeal against refusal to revoke or vary an HMO declaration.

- Application under Schedule 3 – paragraph 14 – recovery of expenses and interest by local authority.

- Application under paragraph 1(7) and 9(8) of Schedule 7 – interim and final EDMO continue in force.

- Applications under Schedule 7 – paragraphs 2(3)(d),and 10(3)(d) – application to determine a lease of a property subject to an EDMO.

- Application under Schedule 7- paragraph 5 (7)- declaration of financial arrangements when Interim EDMO is in force.

- Application under Schedule 7- paragraph 14 (1)- application for the enforcement of a management scheme.

- Application under section 272 of the Housing Act 1985 - application for apportionment and recovery of expenses following demolition.

- Application under section 317(1) – application to determine lease where premises subject to an operative demolition order.

Final RIA: Residential Property Tribunal 2006

Title of Proposal

1. RIA for the Residential Property Tribunal Procedure and Fees Regulations 2006.

Objective

2. To establish an effective procedural and fee structure for residential property tribunals.

Background

3. Residential property tribunals (RPTs) are created by the Housing Act 2004 ("the Act") to determine applications and appeals under Parts 1, 2, 3 and 4 of the Housing Act 2004, and certain applications and appeals under Part 9 of the Housing Act 1985 ("the 1985 Act"). Separate procedure regulations have already been brought into force for a further jurisdiction of RPTs under Part 6 of the Act, relating to the right to buy, for which there are no fees.

   Applications and appeals to which these Regulations apply concern:
   - decisions made by LHAs concerning the housing health and safety rating system (HHSRS);
   - mandatory licensing of houses in multiple occupation (HMOs);
   - selective licensing of other residential accommodation;
   - management orders applying to HMOs and other residential accommodation;
   - empty dwelling management orders (EDMOs); and
   - demolition orders and applications regarding unfit housing under Part 9 of the 1985 Act.

4. RPTs will be administered by the Residential Property Tribunal Service (RPTS), a non-departmental public body (NDPB) sponsored by the ODPM. The RPTS administers Leasehold Valuation Tribunals

and Rent Assessment Committees, which have a wealth of experience in dealing with disputes concerning private sector housing issues. The new jurisdictions given under the Act to RPTs are a logical extension to those of the bodies which the RPTS already administers. RPTs will normally consist of three members; a professionally (usually legally) qualified chair, an expert (usually a building surveyor or a management consultant) and a lay member with relevant practical experience. The constitution of a particular tribunal will be decided by the President or the Vice President of the Residential Property Tribunal Service, as he or she considers appropriate to the case.

5. Separate regulations will be produced for the RPT jurisdiction in Wales.

6. An appeal from an RPT decision will be to the Lands Tribunal, but only with the permission of the tribunal or of the Lands Tribunal.

7. Further jurisdiction can be conferred on RPTs by an order approved by both Houses of Parliament.

Rationale for Government Intervention

8. The Housing Act 2004 requires or empowers the State (in the form of Local Housing Authorities) to interfere with an individual's property. In order to comply with the Humans Right Act 1998 it is, therefore, necessary to provide a system which allows for appeals against decisions to be made to an independent tribunal.

Consultation

9. Consultation on the RPT procedure and fee regulations with the Council on Tribunals was required by statute, and there was also close consultation with the Tribunal Service in the drafting of the regulations. The DCA were also consulted regarding the parallel amendments to the Lands Tribunal Rules to accommodate appeals from the RPT to the Lands Tribunal.

10. We originally sought views on whether licensing appeals should continue to be determined by the county court, or by a dedicated tribunal, during the consultation on the Licensing of Houses of Multiple Occupation in April 1999. We also consulted in 2001 on the Selective Licensing of Private Landlords and sought views on alternative appeal mechanisms e.g. the county court, magistrates' courts or a dedicated tribunal. In response to both consultations, respondents (mainly landlords, tenants and some LHAs) broadly favoured appeals to a dedicated tribunal over other mechanisms. In particular there was little enthusiasm for a continuing role for the county court in the process.

11. In 2003 a consultation was carried out on the draft Housing Bill where we again asked for views on whether appeals should be heard in the county court or by a dedicated tribunal. 54% of responses found in favour of the tribunal.

12. We also separately consulted on the inception of the RPT with DCA, the RPTS, the Council on Tribunals and the Law Commission. None of these bodies raised any objection.

Options

13. Option 1: Do nothing: Not an option. Under the Human Rights Act it is essential that an appeals mechanism is established in order for decisions made under Parts 1-4 and 7 of the Housing Act 2004 to be contested.

14. Option 2: Appeals under the Housing Act 2004 to be heard by the county courts.

15. Option 3: Appeals under the Housing Act 2004 to be heard by newly-created RPTs.

16. A comparison of options 2 and 3 demonstrates the benefits of RPTs over the county court.

17 The RPT as a specialist tribunal will be better placed to deal with proceedings, especially with regards to HHSRS and licensing appeal decisions which involve factual matters in relation to which tribunal panel members could be expected to have expert experience.

18. The procedural regulations have been drafted to enable a speedy and informal approach to determining appeals and applications. In addition, unlike in the county court system, RPT members will be able to take into account their own expert knowledge to help reach decisions, and it is expected that the tribunal will usually inspect the appeal property (if the appeal relates to its physical or management condition).

19. However, full provision has also been made for disclosure of documents and information to the tribunal and between the parties, and for reliance on expert evidence where this is considered necessary. Within the rules set by the procedure regulations, the tribunal may decide on the best procedure in relation to a given application or appeal.

20. Unlike the fast track and multi-track in the county court the RPT is (subject to the limited exceptions specified in the Act) a no cost jurisdiction and, therefore, will not normally award the other sides' costs against a losing party. The Regulations provide that in the rare cases where the tribunal contemplates making a costs order, in accordance with the provisions in the Act, the paying party will be given the opportunity to make representations before the order is made.

21. The tribunal will normally only hold a hearing if either party requests one; otherwise the appeal will be dealt with using the written representations the RPT receives.

22. The procedure regulations require cases before by the RPT to be heard in public, subject to some exceptions at the discretion of the tribunal.

23. The workload of the panels administered by the RPTS has declined since 2000, at a net annual rate of 5200 cases. This reflects mainly the decline of fair rent appeal work. The current estimate of the number of appeals that could be brought under Parts 1-4 of the Act are 4,160 cases per annum, that is 10% of licensing and enforcement decisions. It is estimated that over a five year cycle this would result in:

i) 4,000 HHSRS appeals;
ii) 12,000 HMO appeals;
iii) 4,800 selective licensing appeals; and
iv) 5300 EDMO application and appeals.

24. Currently the RPTS is able to dispose of 80% of fair rent appeal cases within 10 weeks and 80% of LVT cases within 20 weeks. On the basis of the above figures the RPTS estimates that it will be able to dispose of most Housing Act appeals within fifteen weeks.

Business Sectors

25. RPTs will have jurisdiction over all appeals and applications made under parts 1-4 of the Act and in relation to certain appeals and applications under part 9 of the 1985 Act.

Race Equality

26. Our assessment of the establishment of the RPT is that it will not have a significant impact on different racial groups. The tribunals' overriding objective, set out in the Procedure Regulations, is to deal fairly and justly with applications which they are to determine.

Health Impact Assessment

27. The entire purpose behind the introduction of the regime of HHSRS, licensing and management orders is to improve conditions in the worst parts of the private rented sector and improve health and welfare outcomes both for the tenants and the local neighbourhood. The RPT will be able to deal relatively quickly and informally in determining appeals and applications, which will ensure that where they uphold LHA decisions these will be implemented as soon as possible.

Rural Impact Assessment

28. We do not consider there to be any rural impact in the provisions in the procedure or fees regulations.

Implementation Benefits

Economic

29. The RPTS as an NDPB has indicated that the estimated number of appeals can be dealt with within its existing budget of £10m per annum, as funded by the ODPM.

30. In terms of fees, the Regulations set out the circumstances where fees maybe waived, for example if the appellant is in receipt of income support or housing benefit.

31. Unlike the situation under the regulations governing the Leasehold Valuation Tribunal (which also falls within the remit of the RPTS) a fee will not be payable for an oral hearing. Although we anticipate most cases will be dealt with by way of a "paper" hearing, we consider that in a citizen versus the state jurisdiction it would be inappropriate to charge a party an additional fee for presenting their case orally to a tribunal.

Social

32. The RPT will create a more accessible appeals body for appellants. As the tribunal will be more "informal" than the county court process, this will encourage appellants to exercise their right to appeal.

Environmental

33. There are no environmental benefits in the procedure or fees regulations.

Implementation Costs

Economic

34. In order to make an appeal or application to an RPT a fee will in some cases be payable. As a tribunal cannot normally award costs the only deterrent available to it to prevent it being inundated with appeals that are hopeless or not worth pursuing is by charging a reasonable fee for the application. Therefore a standard fee of £150 is applicable, in line with the fees imposed by County Courts for similar types of appeal submitted under the Housing Act 1985. Where a fee is payable but does not accompany the application, and is not paid within the 14 days following, the application will be treated as withdrawn unless the tribunal is satisfied that there are reasonable grounds for not doing so.

35. The fee of £150 should not deter those people with genuine grievances from exercising their right to appeal. The Leasehold Valuation Tribunal (LVT), which is also under the jurisdiction of the RPTS, similarly charges a fee though on a sliding scale between £100 and £300 (which is normally based on the monetary value of appeals). LHAs will not face charges in relation to applications to the tribunals in exercising their statutory functions under the Act, and will not face fees to defend appeals.

36. In some related cases two appeals will attract only one fee of £150.

37. The RPT may order a party who has lost a case to refund the other party the fee they have paid where it considers it appropriate to do so.

38. The RPT does not have power to order a party to pay another party costs, except in exceptional the circumstances specified in the Act. These are:

- where the offending party has failed to comply with an order made by the tribunal;
- where the tribunal has dismissed or allowed an application by reason of the party's failure to provide documents or information; or
- where the party has acted frivolously, vexatiously, abusively, disruptively, or otherwise unreasonably in connection with the proceedings.

Where a costs order is made, it cannot be for an amount greater than £500 and the party against whom the tribunal contemplates making the order must be given the opportunity to make representations first.

Social

39. It is not anticipated that there will be any social costs in consequence of the procedural or fees regulations.

Environmental

40. There are no environmental costs in consequence of the procedural or fees regulations.

Competition Assessment

41. We do not anticipate that there will be any significant impact on existing levels of competition in the affected markets.

Small Firms Impact Test

42. The majority of HMO landlords would be regarded as small businesses. Many own only one or two properties often as a part-time business in addition to other business activity or employment.

43. Landlord organisations broadly support the creation of RPTs, as the current county court system can prove expensive and lengthy at times, and have indicated their agreement that a tribunal would provide greater expertise on housing issues than is presently catered for in the county courts.

44. We have consulted the Small Business Service which accepts our approach and findings.

Enforcement

45. Decisions made by RPTs are binding by law, subject to appeal. Once a decisions has been reached by an RPT, this will be sent, along with written reasons for the decision, to the parties. There is provision in the procedure regulations for enforcement by the county court, with its leave.

46. The Act provides that any appeal made against an RPT decision will be to the Lands Tribunal, but only with the permission of either the Lands Tribunal or the RPT itself. The procedure regulations provide 21 days to request such permission from the RPT.

Implementation and Delivery Plan

47. Parts 1, 2, 3 and 4 of the Act will come into effect on the 6 April. The RPT procedure and fees regulations applying to jurisdictions under those parts and to jurisdictions under Part 9 of the 1985 Act will come into force on the same date or shortly afterwards. Separate regulations for the RPT in Wales will be published shortly.

Post Implementation Review

48. There will be a formal monitoring process of the implementation of the Housing Act 2004 in the form of an evaluation within a three-year period after implementation. This will enable a proper assessment of the impact and effectiveness and of the new system and allow changes to be made if necessary.

49. Any changes which are deemed necessary to be made to the procedure and fee regulations, if these are found to be justified for policy reasons, can be made by amending the secondary legislation which contains the detailed procedures.

Summary and Recommendation

50. The table below sets out the main costs and benefits in establishing the RPT as the first instance appeal body from decisions made by local housing authorities (LHAs) under Parts 1, 2, 3, 4 and 7 of the Housing Act 2004.

Residential Property Tribunal		
Option	**Costs**	**Benefits**
Option 1: Do Nothing	N/A	N/A

Residential Property Tribunal		
Option	**Costs**	**Benefits**
Option 2: Appeals heard by the County Court	County Court proceedings are adversarial, and judges base their decisions on the most "reliable" evidence. Judges are not experts on landlord and tenant issues and tend to over rely on expert witnesses. County Court decisions are not binding on Judges, so there is no body of consistent judgements on similar issues. Appeals to the County Court often face procedural delay. Appellants to the county court face legal costs and the standard application fee of £150.	The County Courts have experience of dealing with appeals under the Housing Act 1985.
Option 3: Appeals heard by RPTs	In order to make an appeal or application to the RPT a fee will be payable. A standard fee of £150 is applicable. Fees will be charged per application. There will however be certain circumstances, such as 'combined appeals', where one fee will be payable.	The RPT will take an inquisitorial role in the proceedings and will allow members to take into account their own expert knowledge to help reach decisions. The RPT will create a more accessible appeals body for appellants, providing greater access to justice. The RPT will provide a more informal appeals body, enhancing access to justice. The RPT will provide for greater consistency in decision making. The RPT has the power to fast track "cases of urgency". The estimated number of appeals can be dealt with within the RPTS's existing budget, namely £10m per annum. The Regulations set out the circumstances where fees maybe waived or reduced.

Residential Property Tribunal		
Option	**Costs**	**Benefits**
		A fee will not be payable for an oral hearing.

51. In response to the consultations on HMO and Selective Licensing it became clear that stakeholders preferred a less formal appeals system than was available through the county court system. County Courts are perceived to deter people from exercising their right to appeal due to the formality and delay of proceedings, and also the legal costs that appellants would face. A losing appellant is also liable to pay the winners' costs.

52. The RPT will also provide greater access to justice by establishing a more informal appeal procedure, whilst providing for greater consistency in decision making. Although a fee of £150 will be charged for appeals this is in order to prevent an influx of frivolous and vexatious claims. As appeals under Parts 1 - 4 and 7 of the Housing Act 2004 involve largely factual or quasi legal disputes, it has been decided that an expert tribunal would be better placed to deal with such appeals, in line with government policy. RPTs under the jurisdiction of the RPTS are the preferred option.

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

***Signed* ……Kay Andrews……..**

Date 17th March 2006

Minister's name, title, department

Kay Andrews, Parliamentary Under Secretary of State, ODPM

Contact point for enquiries and comments: