

# **BUILDING (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **THE ACT - AN OVERVIEW**

#### **Part 4: Defective and Dangerous Buildings**

##### ***Section 28: Defective buildings***

87. This section makes provision for local authorities to serve a notice on an owner of a building to rectify defects in order to bring the building into a reasonable state of repair, having regard to its age, type and location. This power replaces that in section 87(1) of the Civic Government (Scotland) Act 1982. It might be used, for example, in the case where a leaking roof risked damaging the structure of a building, to require the owner to make it resistant to moisture.
88. Under *subsections (3) and (4)* a local authority must specify in a defective building notice the dates by which works must be started and completed and may specify particular steps which the owner must take to comply with the notice.
89. *Subsection (5)* provides that a building warrant is required for work to comply with a building regulations compliance notice if it would normally be required for that work under section 8. *Subsection (6)* provides that where the local authority issuing the notice is a verifier, the notice may require any relevant building warrant application or completion certificate to be submitted to that local authority, as opposed to any other verifier. *Subsections (7) and (8)* provide that the dates by which work to comply with a notice must start and be completed may be amended when a building warrant application is made in respect of the work.
90. *Subsections (9) and (10)* create an offence where an owner has either not started or not completed work by the relevant specified dates and in such cases permits local authorities to carry out the required work and to recover expenses incurred by it from the owner.
91. *Subsection (11)* provides that a local authority does not have to apply for a building warrant where it is carrying out work to comply with a defective building notice because the owner has not failed to do so. The authority must, however, register a completion certificate in the building standards register to certify that the necessary work has been carried out.
92. *Subsection (12)* makes provision for a local authority to withdraw or amend a defective building notice before or after it has taken effect. *Subsection (13)* provides that a local authority may issue a further such notice even if it has already withdrawn one.