



Housing (Scotland) Act 2006

2006 asp 1

PART 1

HOUSING STANDARDS

CHAPTER 6

MAINTENANCE

Recovery of maintenance costs

50 Power of majority to recover maintenance costs

- (1) Subsection (3) applies where—
- (a) the owners of two or more houses which form part of the same premises are responsible by virtue of a real burden or otherwise for maintaining any part of those premises and—
 - (i) those owners are required to carry out any such maintenance (whether in implementation of a maintenance plan or otherwise), or
 - (ii) a majority of those owners agree to carry out any such maintenance,
 - (b) notice has been served on each owner responsible for that maintenance requiring the owner to deposit a sum into a maintenance account representing the apportioned share of the estimated costs for which that owner will be liable,
 - (c) an owner on whom such a notice is served has not complied with such a requirement, and
 - (d) the local authority is satisfied as to the matters set out in subsection (2).
- (2) Those matters are—
- (a) that the maintenance proposed is, having regard to the state of repair of the premises, reasonable,
 - (b) that the share of estimated costs apportioned to the owner who has not complied with the requirement does not conflict with any provision about liability for or apportionment of costs contained in—

Status: This is the original version (as it was originally enacted).

- (i) any real burdens encumbering the houses concerned,
 - (ii) the development management scheme in so far as it applies to those houses or any decision made under that scheme, or
 - (iii) the tenement management scheme in so far as it applies to those houses or any decision made under that scheme, and
- (c) that—
- (i) the owner who has not complied with the requirement is unable to do so,
 - (ii) it is unreasonable to require that owner to deposit the sum in question, or
 - (iii) that owner cannot, by reasonable inquiry, be identified or found.
- (3) Where this subsection applies the local authority may, on the application of any of the owners concerned, deposit in the maintenance account a sum representing the share of the estimated costs of any owner who has not complied with a requirement to make such a deposit.
- (4) Before deciding to make a deposit under subsection (3), the local authority may request the owner who has failed to comply to make representations to the authority, by such date as the authority may specify, about the owner's financial circumstances.
- (5) A notice of the type referred to in subsection (1)(b) must set out—
- (a) the maintenance which is to be carried out,
 - (b) the timetable for carrying out the maintenance, including proposed commencement and completion dates,
 - (c) the date of any requirement or agreement to carry out the maintenance; and, in the case of an agreement, the names of those by whom it was agreed,
 - (d) the estimated cost of the maintenance,
 - (e) why the estimate is considered reasonable,
 - (f) the apportioned share of the estimated costs attributable to each of the owners,
 - (g) how that apportionment is arrived at,
 - (h) the location and number of the maintenance account, and
 - (i) the date by which the owners are required to deposit the sum representing their respective apportioned shares in the maintenance account.
- (7) This section is without prejudice to any other entitlement of the owner of any house to recover sums from an owner who has not complied with a requirement set out in a notice of the type mentioned in subsection (1)(b).
- (8) The local authority must have regard to any guidance issued by the Scottish Ministers about the exercise of its functions under this section.
- (9) The Scottish Ministers may vary or revoke any such guidance.