

Status: Point in time view as at 01/12/2008.

Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, SCHEDULE 3. (See end of Document for details)

SCHEDULE 3

(introduced by section 111(3))

PENALTY CHARGE NOTICES UNDER SECTION 111

- 1 A penalty charge notice given to a person under section 111 by an authorised officer of an enforcement authority must—
- (a) state the officer's belief that that person has committed a breach of duty,
 - (b) give such particulars of the circumstances as may be necessary to give reasonable notice of the breach of duty,
 - (c) require that person, within a period specified in the notice—
 - (i) to pay a penalty charge specified in the notice, or
 - (ii) to give notice to the enforcement authority that that person wishes the authority to review the notice,
 - (d) state the effect of paragraph 8,
 - (e) specify the person to whom and the address at which the penalty charge may be paid and the method or methods by which payment may be made, and
 - (f) specify the person to whom and the address at which a notice requesting a review may be sent (and to which any representations relating to the review may be addressed).

Commencement Information

I1 Sch. 3 para. 1 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 2 The penalty charge specified in the notice must be the amount (not exceeding £500) prescribed for the time being by regulations made by the Scottish Ministers.

Commencement Information

I2 Sch. 3 para. 2 partly in force; Sch. 3 para. 2 not in force at Royal Assent see s. 195(3); Sch. 3 para. 2 in force for certain purposes at 4.12.2006 by S.S.I. 2006/569, art. 2

I3 Sch. 3 para. 2 in force at 1.12.2008 in so far as not already in force by S.S.I. 2008/308, art. 3

- 3 (1) The period specified under paragraph 1(c) must—
- (a) not be less than 28 days, and
 - (b) begin with the day after that on which the penalty charge notice was given.
- (2) The enforcement authority may extend the period for complying with the requirement mentioned in paragraph 1(c) in any particular case if it considers it appropriate to do so.

Commencement Information

I4 Sch. 3 para. 3 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 4 (1) If, within the period specified under paragraph 1(c) (or that period as extended under paragraph 3(2)), the recipient of the penalty charge notice gives notice to the enforcement authority requesting a review, the authority must—
- (a) consider any representations made by the recipient and all other circumstances of the case,

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- (b) decide whether to confirm or withdraw the notice, and
 - (c) serve notice of their decision on the recipient.
- (2) A notice under sub-paragraph (1)(c) confirming the penalty charge notice must also state the effect of paragraphs 5(1) to (4) and 7.
- (3) The enforcement authority—
- (a) must withdraw the penalty charge notice if satisfied, following a review or at any other time—
 - (i) that the recipient did not commit the breach of duty specified in the notice, or
 - (ii) that the notice was not given within the time allowed by section 111(2) or did not comply with the other requirements imposed by or under this schedule,
 - (b) may otherwise withdraw the penalty charge notice if satisfied, following a review or at any other time, that the recipient is unlikely to commit a further breach of the duty specified in the notice.

Commencement Information

I5 Sch. 3 para. 4 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 5
- (1) If after a review the penalty charge notice is confirmed by the enforcement authority, the recipient may appeal by summary application to the sheriff against the penalty charge notice.
 - (2) An appeal against a penalty charge notice must be made within the period 28 days beginning with service of the notice under paragraph 4(1)(c).
 - (3) But the sheriff may on cause shown hear an appeal made after the deadline set by sub-paragraph (2).
 - (4) An appeal against a penalty charge notice must be on one (or both) of the following grounds—
 - (a) that the recipient did not commit the breach of duty specified in the penalty charge notice, or
 - (b) that the notice was not given within the time allowed by section 111(2) or does not comply with any other requirement imposed by or under this schedule.
 - (5) The sheriff must determine an appeal against a penalty charge notice by upholding or quashing the notice.
 - (6) The recipient or the enforcement authority may, on point of law only, appeal to the sheriff principal against the sheriff's determination.
 - (7) In this paragraph “sheriff” means the sheriff of the sheriffdom in which the house is situated.

Commencement Information

I6 Sch. 3 para. 5 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

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- 6 If the penalty charge notice is withdrawn or quashed, the authority must repay any amount previously paid as a penalty charge in pursuance of the notice.

Commencement Information

I7 Sch. 3 para. 6 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 7 (1) The amount of the penalty charge is recoverable from the recipient of the penalty charge notice as a debt owed to the authority unless—
- (a) the notice has been withdrawn or quashed, or
 - (b) the charge has been paid.
- (2) Proceedings for the recovery of the penalty charge may not be commenced—
- (a) before the end of the period mentioned in paragraph 4(1), or
 - (b) where within that period the recipient of the penalty charge notice gives notice to the authority that the recipient wishes the authority to review the penalty charge notice—
 - (i) before the end of the period mentioned in paragraph 5(2), or
 - (ii) where the recipient appeals against the penalty charge notice, before the end of the period of 28 days beginning with the day on which the appeal is abandoned or determined by the sheriff.

Commencement Information

I8 Sch. 3 para. 7 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

- 8 In proceedings for the recovery of the penalty charge, a certificate which—
- (a) purports to be signed by or on behalf of the person having responsibility for the financial affairs of the enforcement authority, and
 - (b) states that payment of the penalty charge was or was not received by a date specified in the certificate,
- is sufficient evidence of the facts stated.

Commencement Information

I9 Sch. 3 para. 8 in force at 1.12.2008 by S.S.I. 2008/308, art. 3

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