



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART VIII

HOUSES IN MULTIPLE OCCUPATION

Powers of local authority to require works to be done

160 Notice requiring compliance with management code

- (1) If in the opinion of the local authority the condition of a house is defective in consequence of—
 - (a) neglect to comply with the requirements imposed by regulations under section 156 (regulations prescribing management code), or
 - (b) in respect of a period falling wholly or partly before the regulations applied to the house, neglect to comply with standards corresponding to the requirements imposed by the regulations,

the authority may serve on the person managing the house a notice specifying the works which in the opinion of the authority are required to make good the neglect, and requiring the person on whom the notice is served to execute those works.

- (2) If it is not practicable after reasonable inquiry to ascertain the name or address of the person managing the house, the notice under this section may be served by addressing it to him by the description of "manager of the house" (naming the house to which it relates) and by delivering it to some person on the premises.
- (3) The notice shall require the execution of the works specified in the notice within such period, being not less than 21 days from the service of the notice, as may be so specified.
- (4) That period may from time to time be extended by written permission of the local authority.
- (5) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house

or a person holding a heritable security over the house of the fact that such a notice has been served.

161 Notice requiring compliance with standards

- (1) The local authority may serve a notice under this section where the condition of a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family is, in the opinion of the authority, so far defective with respect to any of the matters mentioned in subsection (2), having regard to the number of individuals or households, or both, accommodated for the time being on the premises, as not to be reasonably suitable for occupation by those individuals or households.
- (2) The matters referred to in subsection (1) are—
 - natural and artificial lighting,
 - ventilation,
 - water supply,
 - personal washing facilities,
 - drainage and sanitary conveniences,
 - facilities for the storage, preparation and cooking of food, and for the disposal of waste water,
 - installations for space heating or for the use of space heating appliances.
- (3) The notice shall specify the works which in the opinion of the authority are required for rendering the premises reasonably suitable—
 - (a) for occupation by the individuals and households for the time being accommodated there, or
 - (b) for a smaller number of individuals or households and the number of individuals or households, or both, which, in the opinion of the authority, the premises could reasonably accommodate if the works were carried out.
- (4) The notice shall be served either—
 - (a) on the person having control of the house, or
 - (b) on any person to whom the house is let, or on any person who, as the trustee, tutor, curator, factor or agent for or of a person to whom the house is let, receives rents or other payments from tenants of parts of the house or lodgers in the house.
- (5) The notice shall require the person on whom it is served to execute the works specified in the notice within such period (of at least 21 days from the service of the notice) as may be so specified.
- (6) That period may from time to time be extended by written permission of the authority.
- (7) If the local authority are satisfied that—
 - (a) after the service of a notice under this section in respect of any premises the number of individuals living on those premises has been reduced to a level which will make the work specified in the notice unnecessary, and
 - (b) that number will be maintained at or below that level whether in consequence of exercise of the authority's powers under section 166 (powers to limit number of occupants of houses) or otherwise,

they may notify in writing the person on whom the notice was served of the withdrawal of the notice, but the withdrawal of the notice shall be without prejudice to the issue of a further notice.

- (8) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.

162 Notice requiring provision of means of escape from fire

- (1) If it appears to a local authority that a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family is not provided with such means of escape from fire as the authority consider necessary, the authority may, subject to this section, serve on any person on whom a notice may be served under section 161a notice specifying the works which in the opinion of the authority are required to provide such means of escape, and requiring the person on whom the notice is served to execute those works.
- (2) A local authority shall serve such a notice if such house is of such description or occupied in such manner as the Secretary of State may, with the consent of the Treasury, specify by order a draft of which has been approved by the House of Commons.
- (3) A local authority shall, before serving a notice under this section, consult with the fire authority concerned.
- (4) A notice under this section shall require the execution of the works within such period, being not less than 21 days from the service of the notice, as may be specified in the notice, but that period may from time to time be extended by written permission of the local authority.
- (5) Where the local authority serve a notice on any person under this section they shall inform any other person who is to their knowledge an owner or lessee of the house or a person holding a heritable security over the house of the fact that such a notice has been served.
- (6) In this section "fire authority" has the same meaning as in section 82.

163 Appeal against notice requiring execution of works

- (1) A person on whom a notice is served under section 160, 161 or 162 or any other person who is an owner or lessee of the house, or a person holding a heritable security over the house, to which the notice relates, may, within 21 days from the service of the notice, or within such longer period as the local authority may in writing allow, appeal to the sheriff on any of the grounds specified in subsection (2).
- (2) Those grounds are—
- (a) that there has been some informality, defect or error in, or in connection with, the notice;
 - (b) that the local authority have refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;

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

- (c) that the time within which the works are to be executed is not reasonably sufficient for the purpose;
 - (d) that some person other than the appellant is wholly or in part responsible for the state of affairs calling for the execution of the works, or will as the holder of an estate or interest in the premises derive a benefit from the execution of the works, and that that other person ought to pay the whole or any part of the expenses of executing the works;
 - (e) in the case of a notice under section 160, that the condition of the house did not justify the local authority in requiring the execution of the works specified in the notice;
 - (f) in the case of a notice under section 161, that—
 - (i) having regard to the matters mentioned in subsections (1) and (2) of that section, the condition of the house did not justify the local authority in requiring the execution of the works specified in the notice;
 - (ii) the number of individuals or households, or both, specified in the notice is unreasonably low;
 - (g) in the case of a notice under section 162, that the notice is not justified by the terms of that section.
- (3) In an appeal on ground (a), the sheriff shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.
- (4) In an appeal on ground (d)—
- (a) the appellant shall serve a copy of his notice of appeal on each other person referred to in that notice, and
 - (b) on the hearing of the appeal the sheriff may, if satisfied that any other person referred to in the notice of appeal has had proper notice of the appeal, make such order as he thinks fit with respect to the payment to be made by that other person to the appellant or, where the work is executed by the local authority, to the authority.
- (5) If on an appeal under this section against a notice under section 161, the sheriff is satisfied that the number of persons living in the house has been reduced, and that adequate steps (whether by the exercise by the local authority of the power conferred by section 166 to limit the number of persons living in the house or otherwise) have been taken to prevent that number being again increased, the sheriff may, if he thinks fit, revoke the notice or vary the list of works specified in the notice.

164 Carrying out of works by local authority

- (1) If a notice under section 160, 161 or 162 (notice requiring the execution of works) is not complied with, the local authority may themselves do the works required by the notice, with any variation made by the sheriff.
- (2) Compliance with a notice means the completion of the works specified in the notice within the period for compliance, which is—
 - (a) if no appeal is brought against the notice, the period specified in the notice with any extension duly permitted by the local authority;
 - (b) if an appeal is so brought, and the notice is confirmed in whole or in part on the appeal, the period of 28 days from the final determination of the appeal, or such longer period as the sheriff in determining the appeal may fix.

- (3) If, before the expiration of the period for compliance with the notice, the person on whom the notice was served notifies the local authority in writing that he is not able to do the work in question, the authority may, if they think fit, themselves do the work forthwith.
- (4) Part IV of Schedule 11 shall have effect in relation to the recovery by the local authority of expenses reasonably incurred by them under this section.

165 Penalty for failure to execute works

- (1) A person on whom a notice has been served under section 160, 161 or 162 who wilfully fails to comply with the notice, shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding—
 - (a) in the case of a notice under section 160 or 161, level 3 on the standard scale;
 - (b) in the case of a notice under section 162, level 4 on the standard scale.
- (2) The obligation to execute the works specified in the notice continues notwithstanding that the period for compliance has expired; and a person who wilfully fails to comply with that obligation, after being convicted of an offence in relation to the notice under subsection (1) or this subsection, commits a further summary offence and is liable on conviction to a fine not exceeding level 4 on the standard scale.
- (3) References in this section to compliance with a notice and to the period for compliance shall be construed in accordance with section 164(2).
- (4) No liability arises under subsection (1) if the local authority, on being notified under section 164(3) by the person on whom any such notice requiring the execution of works was served that he is not able to do the work in question, serve notice that they propose to do the work and relieve the person served with the notice from liability under subsection (1).
- (5) Subsection (1) shall be without prejudice to the exercise by the local authority of their powers of carrying out works under section 164.