

# HOUSING (SCOTLAND) ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON PARTS

#### Part 1 – Housing Standards

#### *Chapter 8 – Supplemental provisions, including appeals*

#### Appeals

89. **Section 64** provides for the terms of appeals against a work notice, a demolition notice, a local authority decision to carry out additional work, a demand for expenses for carrying out this work, a maintenance order, a maintenance plan or its variation or revocation, or a refusal to grant a certificate under **section 60** in relation to work required by a work notice. In these circumstances the person on whom the notice, demand or order is served may appeal to the sheriff within 21 days of service. Landlords and tenants can appeal to the sheriff against decisions of a Private Rented Housing Committee and a tenant can also appeal against a decision by the President of the Private Rented Housing Panel not to refer a complaint to a Committee. In each case the appeal must be made within 21 days of notification of the decision. A tenant can appeal within six months of a landlord's refusal of, or imposition of conditions on, consent to carry out adaptations under **section 52**. The sheriff may decide to hear a late appeal.
90. **Section 65** deals with the sheriff's determination of appeals. In the case of a work notice, a demolition notice, a local authority decision to carry out additional work, the demand for expenses for carrying out this work, a maintenance order, a maintenance plan or its variation or revocation, the sheriff may confirm or quash a decision, or make any other order the sheriff thinks just. In the case of an appeal by a landlord or tenant against a decision of the president of the Private Rented Housing Panel or of a Private Rented Housing Committee, the sheriff may confirm the decision or remit it, with reasons, for reconsideration by the president or Committee or quash it. In the case of a tenant's appeal against a landlord's refusal of, or imposition of conditions on, consent to carry out adaptations under **section 52(1)**, the sheriff may refuse the appeal or, as appropriate, direct the landlord to withdraw or vary the condition or to accept the tenant's application. If the Disability Rights Commission has issued a code of practice in relation to the exercise of the tenant's right to make adaptations in **section 52** or **53** of the Act, that code has to be taken into account by the sheriff when dealing with a case arising from that right. The sheriff's decision on appeals relating to work or demolition notices, a local authority's carrying out additional work in the course of carrying out work required by a work or demolition order, expenses charged by a local authority for carrying out work required by a work or demolition order, or a refusal to grant a certificate under **section 60** in relation to work required by a work notice may be appealed to the sheriff principal, whose decision is final. The sheriff's decision on any other type of appeal is final.
91. **Section 66** deals with procedures for appeals. They are made by summary application to the court. Issues concerning additional works or expenses in relation to a work notice

*These notes relate to the Housing (Scotland) Act 2006  
(asp 1) which received Royal Assent on 5 January 2006*

or repairing standard enforcement notice cannot be appealed if the points could have been raised in an appeal against the original notice or order.

92. **Section 67** gives Ministers powers to make regulations in relation to a tenant's appeal against a landlord's refusal of, or placing conditions on, consent for work under **section 52(2)**. Such regulations would change the appeal route from the sheriff to the Private Rented Housing Panel and could make necessary adjustments to the procedures of the Panel for dealing with such an appeal and to the procedures for any appeal from the Panel's decision to the sheriff court.