



Building (Scotland) Act 2003

2003 asp 8

PART 3

COMPLIANCE AND ENFORCEMENT

27 Building warrant enforcement notices

- (1) This section applies where it appears to a local authority that—
- (a) work in respect of a building for which a building warrant is required under section 8(1)(a) has been or is being carried out—
 - (i) without a building warrant, or
 - (ii) where a building warrant has been granted, otherwise than in accordance with the warrant, or
 - (b) a building is of a description referred to in subsection (1) of section 14 and has not been demolished by the expiry of the period determined under that section for its demolition.
- (2) Where this section applies, the local authority may serve on the relevant person a notice (a “building warrant enforcement notice”) requiring that person—
- (a) in a case referred to in subsection (1)(a)(i) where the work has been carried out, to submit a completion certificate to a verifier and to secure the verifier’s acceptance of the certificate,
 - (b) in a case referred to in subsection (1)(a)(i) where the work is being carried out, to obtain a building warrant for the work,
 - (c) in a case referred to in subsection (1)(a)(ii)—
 - (i) to secure that the work complies with the warrant, or
 - (ii) to obtain an amendment to the building warrant in respect of the non-compliance,
 - (d) in a case referred to in subsection (1)(b), to obtain a building warrant for the demolition of the building and to demolish the building,
- by such date (not less than 28 days after the date on which the notice takes effect) as the notice may specify.
- (3) In this section, the relevant person, in relation to a building, is—
- (a) in a case referred to in subsection (1)(a)—

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- (i) where the work has been or is being carried out otherwise than on behalf of another person, the person who carried it out or is carrying it out,
 - (ii) where the work has been or is being carried out by a person on behalf of another person, that other person,
 - (iii) if the owner of the building does not fall within sub-paragraph (i) or (ii) and the person specified in those sub-paragraphs cannot be found or no longer has an interest in the building, the owner,
- (b) in a case referred to in subsection (1)(b), the owner of the building.
- (4) Where a local authority serving a building warrant enforcement notice under subsection (2)(a) or (b) is a verifier authorised to exercise functions in relation to the matter in question, the notice may require the completion certificate or, as the case may be, the application for the building warrant to be submitted to the authority.
- (5) A building warrant enforcement notice—
- (a) must specify the date on which the notice is to take effect,
 - (b) may specify particular steps which the local authority requires the person on whom the notice is served to take in complying with the notice,
 - (c) may, in a case referred to in subsection (1)(a) where work is being carried out, require the person on whom the notice is served to suspend work (other than work for complying with the notice) until the notice has been complied with.
- (6) If, by the date specified under subsection (2) (or such later date as the local authority may have substituted under subsection (9)(b)), the person on whom the notice is served has—
- (a) applied for a direction under section 3 in relation to the building in question, and
 - (b) notified the authority of the making of the application,
- the notice has effect with the substitution for the date or later date of such other date (not less than 28 days after the date on which the decision on the application for the direction takes effect) as the local authority may specify.
- (7) If, by the date specified under subsection (2) (or such later date as the local authority may have substituted under subsection (6) or (9)(b)), the person on whom the notice is served has not complied with the notice—
- (a) the person is guilty of an offence, and
 - (b) the authority may carry out the work necessary—
 - (i) in a case referred to in subsection (2)(a) or (b), to secure that the work complies with building regulations,
 - (ii) in a case referred to in subsection (2)(c) or (d), to secure compliance with the notice,
 and may recover from the person any expenses reasonably incurred by it in doing so.
- (8) A building warrant is not required for the carrying out of work by a local authority under subsection (7)(b) but, after the completion of such work, the local authority must register in the building standards register a completion certificate certifying that the work complies with building regulations or, as the case may be, that the work has been completed in accordance with the notice in question.
- (9) The local authority may—

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- (a) withdraw a building warrant enforcement notice,
 - (b) waive or relax any requirement of such a notice, including substituting a later date for the date specified under subsection (2),
- whether or not the notice has taken effect.

(10) The withdrawal of a building warrant enforcement notice does not affect the power of the local authority to issue a further such notice.

Commencement Information

II S. 27 in force at 1.5.2005 by S.S.I. 2004/404, art. 2(1)

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