



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART IV

#### SUB-STANDARD HOUSES

##### *Landlords and tenants in housing action areas*

#### **99 Application to sheriff for possession where house is identified in accordance with paragraph 1(1) of Schedule 8 as read with section 92(4)(a)**

(1) Where—

- (a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8, which identifies the building of which the house consists or forms part in accordance with that paragraph as read with section 92(4)(a);
- (b) the owner of the house is willing to secure the demolition of the building of which the house consists or forms part; and
- (c) the owner cannot obtain vacant possession of the house by agreement with the tenant thereof,

then, whether or not the tenancy of that house has been terminated, the owner may apply to the sheriff for an order for possession of that house.

- (2) Any such order shall require the tenant to vacate the house within such period, not being less than 4 weeks nor more than 6 weeks from the date of the order, as the sheriff may determine and, where any tenancy of that house has not previously been terminated, such order shall have the effect of terminating that tenancy as from the date of the order.
- (3) Any order made under this section may be made subject to such conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of adjustment of rent or compensation for any improvements carried out by the tenant) as the sheriff may think just and equitable, having regard to the respective rights, obligations and liabilities of the parties and to

all the circumstances of the case, but no such order shall be made unless the sheriff is satisfied that suitable alternative accommodation on reasonable terms will be available to the tenant.

**100 Application to sheriff for possession where house is identified in accordance with paragraph 1(1) of Schedule 8 as read with section 92(4)(c)**

(1) Where—

- (a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8 which identifies the house in accordance with that paragraph as read with section 92(4)(c);
- (b) the owner of the house is also the owner of the other part or parts of the building of which the house forms part which have been identified as aforesaid as requiring to be integrated with that house, in whole or in part;
- (c) the owner of the house is willing to carry out the necessary works of integration as aforesaid; and
- (d) the owner cannot obtain vacant possession of the house or of the said other part or parts of the building by agreement with any tenant thereof,

then, whether or not the tenancy of that house or of the said other part or parts of the building has been terminated, the owner may apply to the sheriff for an order for possession of that house or of the said other part or parts of the building.

- (2) The provisions of section 99(2) and (3) shall apply to an order made under this section as they apply to an order made under that section but, without prejudice to the generality of the provisions of those subsections, the sheriff shall, before imposing any such conditions as are referred to in section 99(3), have regard as to whether the owner has offered to any tenant, who will be required to vacate the house by an order under this section, a tenancy of a house which will include in whole or in part that house.

**101 Application to sheriff for possession where house is identified in accordance with paragraph 1 of Schedule 8 as read with section 92(4)(b)**

(1) Where—

- (a) an owner of a house has received a notice stating the effect of a final resolution passed under paragraph 1(1) of Schedule 8, which identifies the house in accordance with that paragraph as read with section 92(4)(b);
- (b) the owner of the house is willing to carry out the necessary works to bring the house up to the standard specified for the area by the local authority under section 90(3) or, as the case may be, by virtue of section 91(3);
- (c) those works cannot be carried out without the consent of the tenant of that house or without the house being vacated temporarily; and
- (d) the tenant refuses to consent to the carrying out of those works or to vacate the house,

then the owner may apply to the sheriff for an order authorising the owner to enter the house and carry out those works, and, on any such application, the sheriff may, if he considers that it is necessary for the house to be vacated to enable the works to be carried out, order the tenant to vacate the house for such period, beginning not less than 4 weeks from the date of the order, as the sheriff may determine.

- (2) Any order made under this section may be made subject to such conditions (including conditions with respect to the payment of rent payable under the tenancy during the

carrying out of the works and as to the period during which the house is to be vacated) as the sheriff may think just and equitable, having regard to all the circumstances of the case, but no such order shall be made unless the sheriff is satisfied that suitable alternative accommodation on reasonable terms will be available to the tenant.

**102 Procedure; and application of s. 103(1) of Rent (Scotland) Act 1984**

Any application made to the sheriff under this Part shall be made by way of summary application and the provisions of section 103(1) of the Rent (Scotland) Act 1984 shall apply to any such application as they apply to an application made under any of the provisions referred to in subsection (2) of that section.

**103 Certain provisions of. Rent (Scotland) Act 1984 not to apply**

Nothing in the Rent (Scotland) Act 1984 restricting the power of a court to make an order for possession of a dwelling-house shall apply to any application made to the sheriff or to any order made by the sheriff under this Part.

**104 Effect of refusal to make order on validity of resolution**

Where, in relation to any application under this Part, the sheriff refuses to make the order sought, that refusal shall not affect the validity of any resolution passed by the local authority under this Part or any rights or obligations of the local authority under this Part or under any other enactment relating to housing.