



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART V

REPAIR OF HOUSES

Repair notices

108 Power of local authority to secure repair of house in state of serious disrepair

- (1) Where a local authority are satisfied that any house in their district is in a state of serious disrepair, they may serve upon the person having control of the house a repair notice.
- (2) A repair notice shall—
 - (a) require that person to execute the works necessary to rectify such defects as are specified in the notice within such reasonable time, being not less than 21 days, as may be specified in the notice, and
 - (b) state that, in the opinion of the local authority, the rectification of those defects will bring the house up to such a standard of repair as is reasonable having regard to the age, character and location, and disregarding the internal decorative repair, of the house.
- (3) Subject to subsection (5), if a notice under subsection (1) is not complied with, the local authority—
 - (a) may themselves execute the works necessary to rectify the defects specified in the notice or in the notice as varied by the sheriff, as the case may be, and
 - (b) may in addition execute any further works which are found to be necessary for the purpose of bringing the house up to the standard of repair referred to in subsection (2)(b), but which could not reasonably have been ascertained to be required prior to the service of the notice.
- (4) Any question as to whether further works are necessary or could not have been reasonably ascertained under subsection (3)(b) shall be determined by the sheriff, whose decision shall be final.

Status: This is the original version (as it was originally enacted).

- (5) The local authority shall not execute any works under subsection (3) until—
 - (a) the expiration of the time specified in the repair notice; or
 - (b) if an appeal against the notice has been made and the notice confirmed with or without variation by the sheriff, the expiration of 21 days from the date of the determination of the appeal or such longer period as the sheriff may order.
- (6) Any action taken under this section or under section 109 shall be without prejudice to any other powers of the local authority or any remedy available to the tenant of a house against his landlord under any enactment or rule of law.
- (7) Where a local authority are of the opinion that a house in their district is in need of repair although not in a state of serious disrepair and that it is likely to deteriorate rapidly, or to cause material damage to another house, if nothing is done to repair it, they may treat it as being in a state of serious disrepair for the purposes of this Part.
- (8) In this Part, "house" includes a building which comprises or includes—
 - (a) a house or houses; or
 - (b) a house or houses and other premises.

109 Recovery by local authority of expenses under s. 108

- (1) Subject to the provisions of this section, any expenses incurred by a local authority under section 108(3), together with interest from the date when a demand for the expenses is served until payment, may be recovered by the authority from—
 - (a) the person having control of the house, or
 - (b) if he receives the rent of the house as trustee, tutor, curator, factor or agent for or of some other person, from him or from that other person, or in part from him and in part from that other person.
- (2) A local authority may apportion any such expenses among the persons having control of the houses and other premises comprised in the building.
- (3) The local authority may by order declare any such expenses to be payable by weekly, monthly, half-yearly or annual instalments within a period not exceeding 30 years with interest from the date of the service of the demand until the whole amount is paid, and any such instalments and interest, or any part thereof, may be recovered from any owner or occupier of the house, and, if recovered from an occupier, may be deducted by him from the rent of the house.
- (4) Any interest payable under subsection (1) or subsection (3) of this section shall be at such reasonable rate as the local authority may determine.
- (5) The provisions of Schedule 9 shall have effect for the purpose of enabling a local authority to make a charging order in respect of any expenses incurred by them under section 108(3) in relation to a house or building.

110 Recovery by lessee of proportion of expenses incurred in repairing house

- (1) Where the tenant of a house or his agent has—
 - (a) incurred expenditure in complying with a repair notice, or in paying the expenses of a local authority who has carried out the works specified in such a notice, and

- (b) intimated service of the notice and its purport to the landlord under the lease in writing within 14 days after such service,
the tenant or the landlord may, in the absence of any agreement between them, apply to the sheriff to determine what part, if any, of the expenditure is payable by the landlord to the tenant.
- (2) In determining an application under subsection (1), the sheriff shall make such determination as he thinks fit having regard to—
- (a) the obligations of the landlord and the tenant under the lease with respect to the repair of the house;
 - (b) the length of the unexpired term of the lease;
 - (c) the rent payable under the lease; and
 - (d) all other relevant circumstances.
- (3) Where the sheriff makes an order for payment by the landlord to the tenant, and the landlord in question is himself a tenant of the house under another lease, he shall be treated for the purposes of this section as being a tenant who has incurred expenditure under subsection (1)(a).
- (4) In this section "lease" includes a sublease and any tenancy, and the expressions "landlord" and "tenant" shall be construed accordingly.

Appeals etc.

111 Appeals under Part V

- (1) Any person aggrieved by—
- (a) a repair notice,
 - (b) a demand for the recovery of expenses incurred by a local authority in executing works, specified in such a notice,
 - (c) an order made by a local authority with respect to any such expenses,
 - (d) a charging order made under Schedule 9,
- may appeal to the sheriff by giving notice of appeal within 21 days after the date of the service of the notice, demand or order, as the case may be; and no proceedings shall be taken by the local authority to enforce any notice, demand or order while an appeal against it is pending.
- (2) On an appeal under paragraph (b), (c) or (d) of subsection (1), no question shall be raised which might have been raised on an appeal against the original notice requiring the execution of the works.

112 Date of operation of notices, demands and orders subject to appeal

—Any notice, demand or order against which an appeal might be brought to the sheriff under section 111 shall—

- (a) if no such appeal is brought, become operative on the expiration of 21 days after the date of the service of the notice, demand or order, as the case may be, and shall be final and conclusive as to any matters which could have been raised on such an appeal, and
- (b) if such an appeal is brought shall, if and so far as it is confirmed by the sheriff, become operative as from the date of the determination of the appeal.

*Landlord and tenant***113 Obligations to repair**

Schedule 10 shall have effect in relation to the landlord's obligation under certain leases to repair the subjects let.