



# Town and Country Planning (Scotland) Act 1997

## 1997 CHAPTER 8

### PART VI

#### ENFORCEMENT

##### *Enforcement notices*

#### **135 Execution and cost of works required by enforcement notice.**

- (1) If any steps which are required by an enforcement notice to be taken have not been taken within the compliance period, the planning authority may—
  - (a) enter the land and take those steps, and
  - (b) recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.
- (2) If that person did not appeal to the Secretary of State although entitled to do so, he shall not be entitled to dispute the validity of the action taken by the planning authority under subsection (1) in accordance with the enforcement notice.
- (3) In computing the amount of the expenses which may be recovered by them under subsection (1), a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.
- (4) Where a copy of an enforcement notice has been served in respect of any breach of planning control—
  - (a) any expenses incurred by the owner, lessee or occupier of any land for the purpose of complying with the notice, and
  - (b) any sums paid by the owner or lessee of any land under subsection (1) in respect of expenses incurred by the planning authority in taking steps required by such a notice to be taken,

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shall be recoverable from the person by whom the breach of planning control was committed.

- (5) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.
- (6) A planning authority taking steps under subsection (1) may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal.
- (7) After any such sale the planning authority shall pay the proceeds to the owner less the expenses recoverable by them from him.
- (8) Where a planning authority seek, under subsection (1), to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—
  - (a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person, and
  - (b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,
 his liability shall be limited to the total amount of the money which he has or has had in his hands on behalf of that other person.
- (9) A planning authority who by reason of subsection (8) have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.
- (10) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (11) In this section and in sections 136,<sup>[F1 136A,]</sup> 140 and 141 any reference to the compliance period, in relation to an enforcement notice, is a reference to the period specified in the notice for compliance with it or such extended period as the planning authority may allow for compliance with it.

#### Textual Amendments

- F1** Word in s. 135(11) inserted (3.8.2009) by [Planning etc. \(Scotland\) Act 2006 \(asp 17\)](#), ss. [54\(7\)](#), [59\(2\)](#); [S.S.I. 2009/219](#), art. 2, sch.

#### Modifications etc. (not altering text)

- C1** S. 135: power to modify conferred (27.5.1997) by [1997 c. 10](#), ss. [23\(1\)\(c\)](#), 31 (with ss. [9\(3\)](#), [10\(5\)](#), [38\(6\)](#))
- C2** Ss. 123-149 functions made exercisable concurrently (7.1.2003) by [The Cairngorms National Park Designation, Transitional and Consequential Provisions \(Scotland\) Order 2003 \(S.S.I. 2003/1\)](#), arts. 1, [7\(1\)\(b\)](#)
- C3** S. 135 modified (1.6.2015) by [The Town and Country Planning \(Hazardous Substances\) \(Scotland\) Regulations 2015 \(S.S.I. 2015/181\)](#), regs. 1, [49](#)
- C4** S. 135(5)-(9) applied (with modifications) (1.3.2010) by [The Infrastructure Planning \(Miscellaneous Prescribed Provisions\) Regulations 2010 \(S.I. 2010/105\)](#), regs. 1(1), [6](#)

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**C5** S. 135(5)-(9) applied (with modifications) (6.4.2015) by [The Infrastructure Planning \(Interested Parties and Miscellaneous Prescribed Provisions\) Regulations 2015 \(S.I. 2015/462\)](#), regs. 1, **9**

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**Changes and effects yet to be applied to :**

- s. 135(1)(b) words inserted by [2019 asp 13 s. 43\(2\)\(a\)\(ii\)](#)
- s. 135(1)(b) words repealed by [2019 asp 13 s. 43\(2\)\(a\)\(i\)](#)
- s. 135(4)(b) words repealed by [2019 asp 13 s. 43\(2\)\(b\)](#)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [S.S.I. 2008/189 art. 53\(3\)](#)
- Act power to apply (with or without modifications) conferred by [2021 asp 9 s. 45\(3\)\(b\)\(c\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 11A inserted by [2006 asp 17 s. 29](#)
- Pt. 12A inserted by [2006 asp 17 s. 30](#)
- Pt. 12A inserted by [2019 asp 13 s. 46\(2\)](#)
- s. 3CD inserted by [2019 asp 13 s. 4\(2\)](#)
- s. 20AA(4)(a)(iii) inserted by [2019 asp 13 s. 14\(6\)](#)
- s. 29(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(3\)\(b\)](#)
- s. 36(1)(ca) inserted by [2019 asp 13 Sch. 2 para. 5\(4\)\(b\)](#)
- s. 36(5)(6) inserted by [2019 asp 13 s. 36\(2\)](#)
- s. 40A inserted by [2019 asp 13 s. 19\(2\)](#)
- s. 43A-43AD substituted for s. 43A by [2019 asp 13 s. 28\(2\)](#)
- s. 47(2)(aa) inserted by [2019 asp 13 s. 28\(3\)\(a\)](#)
- s. 47(2A) inserted by [2019 asp 13 s. 28\(3\)\(b\)](#)
- s. 47(6) inserted by [2019 asp 13 s. 31\(2\)\(c\)](#)
- s. 54A-54F and cross-heading inserted by [2019 asp 13 s. 15\(2\)](#)
- s. 57(2C)(2D) inserted by [2021 asp 9 s. 44\(2\)](#)
- s. 58(4)(fa) inserted by [2019 asp 13 Sch. 2 para. 5\(5\)\(b\)](#)
- s. 61(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(6\)\(b\)](#)
- s. 75(4A) inserted by [2019 asp 13 s. 35\(2\)](#)
- s. 75A(5A) inserted by [2019 asp 13 s. 35\(3\)](#)
- s. 77A inserted by [2019 asp 13 s. 39\(2\)](#)
- s. 135(4A) inserted by [2019 asp 13 s. 43\(2\)\(c\)](#)
- s. 154(1)(c) and word inserted by [2019 asp 13 s. 28\(4\)\(a\)\(ii\)](#)
- s. 154(1A) inserted by [2019 asp 13 s. 28\(4\)\(b\)](#)
- s. 158A(1A) inserted by [2019 asp 13 s. 44\(2\)](#)
- s. 158B-158F and cross-heading inserted by [2019 asp 13 s. 43\(3\)](#)
- s. 183(1)(c) inserted by [2019 asp 13 Sch. 2 para. 5\(7\)\(b\)](#)
- s. 237(1)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(8\)](#)
- s. 238(3)(a)-(c) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(a\)\(ii\)](#)
- s. 238(5)(ba) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(b\)](#)
- s. 238(7) inserted by [2019 asp 13 Sch. 2 para. 5\(9\)\(c\)](#)