

BUILDING (SCOTLAND) ACT 2003

EXPLANATORY NOTES

THE ACT - AN OVERVIEW

Part 4: Defective and Dangerous Buildings

Section 28: Defective buildings

87. This section makes provision for local authorities to serve a notice on an owner of a building to rectify defects in order to bring the building into a reasonable state of repair, having regard to its age, type and location. This power replaces that in section 87(1) of the Civic Government (Scotland) Act 1982. It might be used, for example, in the case where a leaking roof risked damaging the structure of a building, to require the owner to make it resistant to moisture.
88. Under *subsections (3) and (4)* a local authority must specify in a defective building notice the dates by which works must be started and completed and may specify particular steps which the owner must take to comply with the notice.
89. *Subsection (5)* provides that a building warrant is required for work to comply with a building regulations compliance notice if it would normally be required for that work under section 8. *Subsection (6)* provides that where the local authority issuing the notice is a verifier, the notice may require any relevant building warrant application or completion certificate to be submitted to that local authority, as opposed to any other verifier. *Subsections (7) and (8)* provide that the dates by which work to comply with a notice must start and be completed may be amended when a building warrant application is made in respect of the work.
90. *Subsections (9) and (10)* create an offence where an owner has either not started or not completed work by the relevant specified dates and in such cases permits local authorities to carry out the required work and to recover expenses incurred by it from the owner.
91. *Subsection (11)* provides that a local authority does not have to apply for a building warrant where it is carrying out work to comply with a defective building notice because the owner has not failed to do so. The authority must, however, register a completion certificate in the building standards register to certify that the necessary work has been carried out.
92. *Subsection (12)* makes provision for a local authority to withdraw or amend a defective building notice before or after it has taken effect. *Subsection (13)* provides that a local authority may issue a further such notice even if it has already withdrawn one.

Section 29: Dangerous buildings

93. This section places duties on a local authority where it appears to it that a building presents a danger to people in or about that building, to the public generally, or to adjacent buildings or places. Under *subsection (2)* the authority must carry out work to prevent access to the dangerous building and adjacent places and to protect the

public. *Subsections (3) and (4)* give a local authority power, where it considers that urgent action is necessary to remove or reduce a danger, to carry out the necessary work, including demolition. In cases of urgency, the subsection recognises that it may not be possible to give prior notice to the owner.

94. *Subsection (5)* provides that a local authority does not require a building warrant for work carried out in relation to dangerous buildings under subsections (2) and (3) but must register in the building standards register a completion certificate certifying that the work has been carried out.
95. Unless work carried out under subsection (3) removes the danger, the local authority must serve a dangerous building notice on the owner (*subsection (6)*).

Section 30: Dangerous buildings notices

96. *Subsections (1) and (2)* set out the purpose of a dangerous building notice and provide for the notice to specify dates by which work to comply with the notice must be started and completed. *Subsection (4)* creates an offence where an owner has either not started or not completed work by the specified dates and in such cases permits the local authority to carry out the required work and to recover expenses incurred by it from the owner. *Subsection (5)* provides that no building warrant is required for work to comply with a dangerous building notice and that any work which a local authority may carry out in order to comply with the notice does not require a building warrant, although where the authority carries out the work, it must register in the building standards register a completion certificate certifying that the work has been carried out in accordance with the notice.
97. *Subsection (6)* makes provision for a local authority to withdraw or amend a dangerous building notice before or after it has taken effect. *Subsection (7)* provides that a local authority may issue a further such notice even if it has already withdrawn one.