



# Building (Scotland) Act 2003

## 2003 asp 8

### PART 4

#### DEFECTIVE AND DANGEROUS BUILDINGS

#### 28 Defective buildings

- (1) A local authority may serve on the owner of a building a notice (a “defective building notice”) requiring the owner to rectify such defects in the building as the notice may specify.
- (2) The defects which may be specified in a defective building notice are defects which require rectification in order to bring the building into a reasonable state of repair having regard to its age, type and location.
- (3) A defective building notice must specify—
  - (a) a date not less than 7 days after the date of service of the notice by which the owner must have begun the work required by the notice, and
  - (b) a date not less than 21 days after the date specified under paragraph (a) by which the owner must have completed that work,and may specify different dates for the commencement and completion of different work.
- (4) A defective building notice may specify particular steps which the local authority requires the owner to take in complying with the notice.
- (5) Subject to subsection (11), nothing in this section affects the requirement to obtain a building warrant (where one is required) under section 8 for any work required to comply with a defective building notice.
- (6) Where a local authority serving a defective building notice is a verifier authorised to exercise functions in relation to the matter in question, the notice may require—
  - (a) any application for a building warrant for work required to comply with the notice to be made, and
  - (b) any completion certificate in respect of such work to be submitted, to the authority.

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- (7) If, by the date specified under subsection (3)(a) (or such later date as the local authority may have substituted for that date under subsection (12)(b)), the owner has—
- (a) applied for a building warrant in respect of any work required to comply with the notice, and
  - (b) (if the local authority is not the verifier to which the application is made) notified the authority of the making of the application,
- the notice has effect with the substitutions specified in subsection (8).
- (8) Those substitutions are that—
- (a) for the date referred to in subsection (7) there is substituted such later date (not less than 7 days after the date on which the verifier’s decision on the application takes effect) as the local authority may specify, and
  - (b) for the date specified under subsection (3)(b) (or such later date as the local authority may have substituted for that date under subsection (12)(b)) there is substituted such later date (not less than 21 days after the date specified under paragraph (a)) as the local authority may specify.
- (9) Subsection (10) applies where the owner—
- (a) has not begun the work required by a defective building notice by the date specified under subsection (3)(a), or
  - (b) has not completed that work by the date specified under subsection (3)(b),
- (or, in either case, such later date as the local authority may have substituted under subsection (7) or (12)(b)).
- (10) Where this subsection applies—
- (a) the owner is guilty of an offence, and
  - (b) the local authority may carry out the work necessary to complete the work required by the notice and may recover from the owner any expenses reasonably incurred by it in doing so.
- (11) A building warrant is not required for the carrying out of work by a local authority under subsection (10)(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 has been completed in accordance with the notice in question.
- (12) The local authority may at any time—
- (a) withdraw a defective building notice,
  - (b) waive or relax any requirement of such a notice, including substituting a later date for a date specified under subsection (3)(a) or (b).
- (13) The withdrawal of a defective building notice does not affect the power of the local authority to issue a further such notice.

## **29 Dangerous buildings**

- (1) This section applies where it appears to a local authority that a building (a “dangerous building”) constitutes a danger to persons in or about it or to the public generally or to adjacent buildings or places.
- (2) The local authority must carry out such work (including, if necessary, demolition) as it considers necessary—

- (a) to prevent access to the dangerous building and to any adjacent parts of any road or public place which appear to the authority to be dangerous by reason of the state of the building, and
    - (b) otherwise for the protection of the public and of persons or property in places adjacent to the dangerous building,
- and may recover from the owner of the dangerous building any expenses reasonably incurred by it in doing so.
- (3) Where the local authority considers that urgent action is necessary to reduce or remove the danger it may, after giving the owner of the building such notice (if any) as the circumstances permit, carry out such work (including, if necessary, demolition) as it considers necessary to reduce or remove the danger and may recover from the owner of the dangerous building any expenses reasonably incurred by it in doing so.
  - (4) The work which may be carried out under subsection (3) is work which could have been specified in a notice under subsection (6) in relation to the dangerous building.
  - (5) A building warrant is not required for the carrying out of work by a local authority under subsection (2) or (3) but, after the completion of such work, the local authority must register in the building standards register a completion certificate certifying that the work has been carried out.
  - (6) Except where the danger has been removed by work carried out under subsection (3), the local authority must serve on the owner of the dangerous building a notice (a “dangerous building notice”) requiring the owner to carry out such work as the notice may specify.
  - (7) Section 30 makes further provision about dangerous building notices.

### **30 Dangerous building notices**

- (1) The work to be specified in a dangerous building notice is the work for the repair, securing or demolition of the dangerous building which the local authority considers necessary to remove the danger.
- (2) A dangerous building notice must specify dates by which the owner must have begun and completed the work required by the notice and may specify different dates for the commencement and completion of different work.
- (3) Subsection (4) applies where the owner has not begun, or has not completed, work required by a dangerous building notice by the date specified under subsection (2) for its commencement or, as the case may be, completion (or such later date as the local authority may have substituted under subsection (6)(b)).
- (4) Where this subsection applies—
  - (a) the owner is guilty of an offence, and
  - (b) the local authority may carry out the work necessary to complete the work required by the notice and may recover from the owner any expenses reasonably incurred by it in doing so.
- (5) A building warrant is not required for the carrying out of any work required by a dangerous building notice or for the carrying out of any work by a local authority under subsection (4)(b) but, where such work is carried out by a local authority, the authority must, after the completion of the work, register in the building standards register a

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completion certificate certifying that the work has been completed in accordance with the notice in question.

- (6) The local authority may at any time—
  - (a) withdraw a dangerous building notice,
  - (b) waive or relax any requirement of such a notice, including substituting a later date for a date specified under subsection (2).
- (7) The withdrawal of a dangerous building notice does not affect the power of the local authority to issue a further such notice.