



# Building (Scotland) Act 2003

## 2003 asp 8

### PART 4 **S**

#### DEFECTIVE AND DANGEROUS BUILDINGS

#### 28 Defective buildings **S**

- (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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*Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 2003, Section 28. (See end of Document for details)*

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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.

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**Commencement Information**

**II** S. 28 in force at 1.5.2005 by S.S.I. 2004/404, art. 2(1)

**Changes to legislation:**

There are currently no known outstanding effects for the Building (Scotland) Act 2003, Section 28.