



Housing (Scotland) Act 2006

2006 asp 1

PART 1

HOUSING STANDARDS

CHAPTER 8

SUPPLEMENTAL PROVISIONS, INCLUDING APPEALS

Appeals

64 Part 1 appeals

- (1) Any person aggrieved by a decision by a local authority—
- (a) to serve a work notice,
 - (b) to serve a demolition notice,
 - (c) to carry out work in pursuance of—
 - (i) section 35(1)(b), or
 - (ii) section 36(1)(b),other than, in either case, work for which no notice is required,
 - (d) to demand recovery of any expenses incurred in carrying out work authorised by—
 - (i) section 35, or
 - (ii) section 36,
 - (e) to serve a maintenance order,
 - (f) to approve or devise a maintenance plan or to vary or revoke such a plan, or
 - (g) to refuse to grant a certificate under section 60 in relation to any work required by a work notice,
- may appeal to the sheriff within 21 days of the date specified in subsection (2).
- (2) That date is—

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- (a) in the case of an appeal under paragraph (a), (b), (d) or (e) of subsection (1), the date on which the work notice, demolition notice, demand for recovery of expenses or, as the case may be, maintenance order is served on the appellant,
 - (b) in the case of an appeal under paragraph (c) or (g) of subsection (1), the date on which notice of proposed work or, as the case may be, of the decision to refuse to grant the certificate is served on the appellant, or
 - (c) in the case of an appeal under paragraph (f) of subsection (1), the date on which notice of the approval, devising, variation or revocation is served on the appellant.
- (3) An appeal under subsection (1) may be made only by a person on whom the relevant work notice, notice of proposed work, demand for recovery of expenses, maintenance order or, as the case may be, notice of the approval, devising, variation or revocation of a maintenance plan is served under this Act.
- (4) A landlord or a tenant aggrieved by a decision by a private rented housing committee—
- (a) under section 24(1) (decision on ^{F1}an application),
 - (b) to vary or revoke a repairing standard enforcement order (see section 25),
 - (c) that a landlord has failed to comply with a repairing standard enforcement order (see section 26(1)),
 - (d) to make or not to make a rent relief order (see section 26(2)(b)),
 - (e) to revoke a rent relief order (see section 27(4)), or
 - (f) to grant, or to refuse to grant, a certificate under section 60 in relation to any work required by a repairing standard enforcement order,
- may appeal to the sheriff within 21 days of being notified of that decision.
- ^{F2}(4A) A third party applicant aggrieved by a decision by a private rented housing committee which—
- (a) is mentioned in subsection (4)(a) to (f),
 - (b) was made following an application by the applicant under section 22(1A),
- may appeal to the sheriff within 21 days of being notified of that decision.]
- (5) A tenant ^{F3}[or a third party applicant] may appeal to the sheriff against a decision by the president of the private rented housing panel under section 23(1) within 21 days of being notified of that decision.
- (6) A tenant aggrieved by a decision by a landlord—
- (a) to impose any condition on a consent to carry out work in pursuance of section 52(2), or
 - (b) to refuse to consent to the carrying out of any such work,
- may appeal to the sheriff within 6 months of being notified of that decision.
- (7) The sheriff may, on cause shown, hear an appeal after the deadline set by subsection (1), (4), (5) or, as the case may be, (6).

Textual Amendments

F1 Word in s. 64(4)(a) substituted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 27\(1\)\(a\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)

F2 S. 64(4A) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\), ss. 27\(1\)\(b\), 104\(3\); S.S.I. 2015/272, art. 2, sch.](#)

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F3 Words in s. 64(5) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 27(1)(c)**, 104(3); [S.S.I. 2015/272](#), **art. 2**, sch.

Commencement Information

II S. 64 wholly in force at 3.9.2007; s. 64 not in force at Royal Assent see s. 195(3); s. 64(6) in force at 4.12.2006 and s. 64(7) in force at 4.12.2006 for certain purposes by [S.S.I. 2006/395](#), **art. 2**; s. 64(1)-(5)(7) in force at 3.9.2007 by [S.S.I. 2007/270](#), {art. 3 Table}

65 Part 1 appeals: determination

- (1) The sheriff, in determining an appeal under 64(1), may—
 - (a) confirm the decision (and any work notice, demolition notice, demand for recovery of expenses or maintenance order served, or maintenance plan approved, devised or varied, in consequence of it),
 - (b) quash the decision (and any such notice, demand, order or plan), or
 - (c) make such other order as the sheriff thinks just.
- (2) The sheriff may determine an appeal under section 64(4) [^{F4}, (4A)] or (5) by—
 - (a) confirming the decision (and any order or variation made, or certificate granted, in consequence of it),
 - (b) remitting the decision (together with the sheriff's reasons for doing so) to the president or, as the case may be, the committee for reconsideration, or
 - (c) quashing the decision (and any order or variation made, or certificate granted, in consequence of it).
- (3) The sheriff must, unless the sheriff considers the condition or, as the case may be, refusal appealed against to be reasonable, determine an appeal under section 64(6) by quashing the decision and directing the landlord to withdraw the condition (or to vary it in such manner as the sheriff may specify) or, as the case may be, to consent to the application (with or without such conditions as the sheriff may specify).
- (4) In determining whether a condition or refusal appealed against under section 64(6) is reasonable, the sheriff must, where the appeal relates to an application made for the purposes of section 52(2)(a), have regard to any code of practice issued by the [^{F5}Commission for Equality and Human Rights] which relates to section 52 or 53.
- (5) The sheriff's determination on an appeal under section 64 is final (subject to subsection (6)).
- (6) The sheriff's determination on an appeal under paragraph (a), (b), (c)(i), (d)(i) or (g) of section 64(1) may be appealed to the sheriff principal within 21 days of the sheriff's determination; and the sheriff principal's decision on any such appeal is final.

Textual Amendments

- F4** Word in s. 65(2) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 27(2)**, 104(3); [S.S.I. 2015/272](#), **art. 2**, sch.
- F5** Words in s. 65(4) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), **ss. 40, 93**, **Sch. 3 para. 63(b)** (with s. 92); [S.I. 2007/2603](#), **art. 2** (subject to art. 3)

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Commencement Information

- I2** S. 65 partly in force; s. 65 not in force at Royal Assent see s. 195(3); s. 65(3)(4) in force at 4.12.2006, s. 65(5) in force for certain purposes at 4.12.2006 by [S.S.I. 2006/395](#), [art. 2](#); s. 65(1)(2)(5) in force at 3.9.2007 by [S.S.I. 2007/270](#), {art. 3 Table}
- I3** S. 65(6) in force at 1.4.2009 by [S.S.I. 2009/122](#), [art. 3](#)

66 Part 1 appeals: procedure etc.

- (1) An appeal under section 64 is to be made by summary application.
 - (2) No question may be raised on an appeal under section 64(1)(c)(i), (d)(i) or (g) (or on a subsequent appeal to the sheriff principal) which might have been raised on an appeal against the decision to make the work notice or demolition notice to which the appeal relates.
 - (3) No question may be raised on an appeal under subsection (1)(c)(ii) or (d)(ii), or subsection (4)(d), (e) or (f), of section 64 which might have been raised on an appeal against the decision under section 24(1) in consequence of which the repairing standard enforcement order to which the appeal relates was made.
- [^{F6}(3A) In an appeal by a landlord under section 64(4) which relates to a decision following an application under section 22(1A)—
- (a) the third party applicant is to be a party to the proceedings,
 - (b) the tenant is entitled to be a party to the proceedings.
- (3B) In an appeal by a tenant under section 64(4) which relates to a decision following an application under section 22(1A), the landlord and the third party applicant are to be parties to the proceedings.
- (3C) In an appeal by a third party applicant under section 64(4A)—
- (a) the landlord is to be a party to the proceedings,
 - (b) the tenant is entitled to be a party to the proceedings.]
- (4) The sheriff may make such order about the expenses of an appeal under section 64 as the sheriff thinks fit (and the sheriff principal may make such an order in relation to any subsequent appeal).

Textual Amendments

- F6** S. 66(3A)-(3C) inserted (1.12.2015) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), [ss. 27\(3\)](#), 104(3); [S.S.I. 2015/272](#), [art. 2](#), [sch.](#)

Commencement Information

- I4** S. 66 wholly in force at 3.9.2007; s. 66 not in force at Royal Assent see s. 195(3); s. 66(1)(4) in force for certain purposes at 4.12.2006 by [S.S.I. 2006/395](#), [art. 2](#); s. 66 in force at 3.9.2007 by [S.S.I. 2007/270](#), {art. 3 Table}

67 Adaptations: power to change method of appeal

- (1) The Scottish Ministers may by regulations—
 - (a) disapply section 64(6), and

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- (b) provide that appeals against landlord's decisions of the type mentioned in that provision may be made to the private rented housing panel instead of to the sheriff.
- (2) Regulations under subsection (1) may in particular—
- (a) permit the president of the private rented housing panel to refer an appeal against such a decision to a private rented housing committee for determination,
 - (b) require the panel or, as the case may be, the committee determining such an appeal to have regard to—
 - (i) where the appeal relates to an application made for the purposes of section 52(2)(a), any code of practice issued by the [^{F7}Commission for Equality and Human Rights]^{F7} which relates to section 52 or 53, and
 - (ii) such other matters as may be specified in the regulations,
 - (c) provide that the determination of the panel or, as the case may be, the committee on such an appeal may be appealed to the sheriff,
 - (d) make provision about the payment of allowances and expenses in respect of such an appeal,
 - (e) make such further provision about the procedure relating to such an appeal or to an appeal to the sheriff of the type mentioned in paragraph (c) as the Scottish Ministers think fit.

Textual Amendments

- F7** Words in s. 67(2)(b)(i) substituted (1.10.2007) by [Equality Act 2006 \(c. 3\)](#), ss. 40, 93, [Sch. 3 para. 63\(c\)](#) (with s. 92); [S.I. 2007/2603](#), [art. 2](#) (subject to [art. 3](#))

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