



Housing (Scotland) Act 2006

2006 asp 1

PART 1 **S**

HOUSING STANDARDS

CHAPTER 5 **S**

REPAIR, IMPROVEMENT AND DEMOLITION OF HOUSES

Enforcement by local authority

38 Warrants for ejection **S**

- (1) Where an occupant has not complied with a requirement under section 37(1), the local authority may, by summary application, apply to the sheriff for a warrant for the ejection of the occupant from the land or premises in question.
- (2) No such application may be made before the expiry of the period specified in the notice served under section 37(2).
- (3) On such an application, the sheriff may require the service of a further notice on the occupant.
- (4) The sheriff may, if satisfied that the occupant is likely to be endangered by the carrying out of the work or demolition concerned, grant a warrant of ejection requiring the occupant to move from the land or premises in question, within such period as the sheriff may determine, until the work or demolition is completed.
- (5) Such a warrant—
 - (a) may be made subject to such other conditions (including conditions with respect to payment of rent) as the sheriff thinks just and equitable, but
 - (b) where a further notice is served under subsection (3), may not require the occupant to move before the day which is 14 days after service of that notice.
- (6) No such warrant may require a person to move from any living accommodation which is that person's only or main residence unless the sheriff is satisfied that suitable alternative living accommodation on reasonable terms will be available to that person.

Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Section 38. (See end of Document for details)

- (7) The reference in subsection (6) to suitable alternative living accommodation is a reference to living accommodation which is suitable for occupation by the resident and any other person whose only or main residence would, but for the location of that other person's place of work or of any educational institution which the person attends, be the living accommodation concerned.
- (8) The sheriff's decision on the application is final.
- (9) Refusal by the sheriff to grant any warrant sought under this section does not affect the validity of the work notice, demolition notice or repairing standard enforcement order in relation to which the warrant was sought.
- (10) Nothing in [^{F1}an enactment mentioned in subsection (11)] restricts the power of a local authority to apply for, or the power of the sheriff to grant, a warrant under subsection (4).
- [^{F2}(11) The enactments referred to in subsection (10) are—
- (a) the Rent (Scotland) Act 1984,
 - (b) Part 2 of the Housing (Scotland) Act 1988,
 - (c) the Private Housing (Tenancies) (Scotland) Act 2016.]

Textual Amendments

- F1** Words in s. 38(10) substituted (1.12.2017) by Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), s. 79(2), **sch. 4 para. 9(2)(a)**; S.S.I. 2017/346, reg. 2, sch.
- F2** S. 38(11) inserted (1.12.2017) by Private Housing (Tenancies) (Scotland) Act 2016 (asp 19), s. 79(2), **sch. 4 para. 9(2)(b)**; S.S.I. 2017/346, reg. 2, sch.

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