



# Historic Environment (Amendment) (Scotland) Act 2011 2011 asp 3

## PART 3

### MODIFICATIONS OF THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) (SCOTLAND) ACT 1997

#### *Liability of owner and successors for expenses of urgent works*

#### **26 Liability of owner and successors for expenses of urgent works**

- (1) The 1997 Act is amended in accordance with subsections (2) and (3) of this section.
- (2) In section 50 (recovery of expenses of works under section 49), after subsection (5) add—
  - “(6) Where a person to whom notice has been given under subsection (2) ceases, during the 28 day period mentioned in subsection (4), to be the owner of the building, a person may within 28 days of becoming the new owner of the building represent to the Scottish Ministers a matter mentioned in any of paragraphs (a) to (c) of subsection (4); and the Scottish Ministers shall determine to what extent the representations are justified.
  - (7) Subsection (5) applies to a determination under subsection (6) as it applies to a determination under subsection (4).”
- (3) After that section insert—

*“Liability of owner and successors for expenses of works executed under section 49*

**50A Liability of owner and successors for expenses of works executed under section 49**

- (1) An owner of a listed building who is liable for expenses under section 50(2) does not, by virtue only of ceasing to be such an owner, cease to be liable for those expenses.
- (2) Subject to subsection (3), where a person becomes an owner of a listed building (any such person being referred to in this section as a “new owner”) that person is severally liable with any former owner of the building for any expenses for which the former owner is liable under section 50(2).
- (3) A new owner is liable as mentioned in subsection (2) only if the condition mentioned in subsection (4) or subsection (5) is met.
- (4) The condition is that—
  - (a) a notice (a “notice of liability for expenses”) in the form prescribed under section 50G is registered in relation to the building,
  - (b) the notice was registered at least 14 days before the acquisition date, and
  - (c) the notice has not expired before the acquisition date.
- (5) The condition is that—
  - (a) a notice of renewal (within the meaning of section 50C) in relation to the building is registered, and
  - (b) that notice has not expired before the acquisition date
- (6) A notice of liability for expenses is to specify—
  - (a) the expenses mentioned in subsection (2), and
  - (b) the works to which the expenses relate.
- (7) In this section, “acquisition date” means the date on which the new owner acquired right to the listed building.
- (8) Where a new owner of a listed building pays any expenses for which a former owner of the building is liable, the new owner may recover the amount so paid from the former owner.
- (9) A person who is entitled to recover an amount under subsection (8) does not, by virtue only of ceasing to be the owner of the listed building, cease to be entitled to recover that amount.
- (10) This section applies as respects any expenses for which an owner of a listed building becomes liable on or after the day on which this section comes into force.

**50B Notice of liability for expenses: further provision**

- (1) A notice of liability for expenses—
  - (a) may be registered only on the application of the Scottish Ministers or a planning authority,

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- (b) may be registered in respect of expenses of different works executed on a listed building,
  - (c) expires at the end of the period of 5 years beginning with the date of its registration.
- (2) The Keeper of the Registers of Scotland is not required to investigate or determine whether the information contained in any notice of liability for expenses submitted for registration is accurate.

### **50C Notices of renewal**

- (1) Subsection (2) applies where—
- (a) a notice of liability for expenses in relation to a listed building is registered, and
  - (b) that notice has not expired.
- (2) A notice (a “notice of renewal”) in the form prescribed by section 50G specifying the same expenses and works as those specified in the notice of liability for expenses may be registered.
- (3) A second or subsequent notice of renewal in respect of the same expenses and works specified in the notice of liability for expenses mentioned in subsection (1) may be registered.
- (4) A second or subsequent notice of renewal may not be registered if an earlier notice of renewal has expired.
- (5) Where the notice of liability for expenses mentioned in subsection (1) was registered on the application of—
- (a) the Scottish Ministers, a notice of renewal may be registered only on the application of the Scottish Ministers,
  - (b) a planning authority, a notice of renewal may be registered only on the application of that authority.
- (6) A notice of renewal expires at the end of the period of 5 years beginning with the date of its registration.
- (7) The Keeper of the Registers of Scotland is not required to investigate or determine whether the information contained in any notice of renewal submitted for registration is accurate.

### **50D Notice of determination following representations under section 50**

- (1) Subsections (2) and (3) apply where—
- (a) a notice of liability for expenses (in this section, the “original notice”) in relation to a listed building, or a notice of renewal in relation to the original notice, is registered, and
  - (b) the owner of the listed building has made representations to the Scottish Ministers under section 50(4) or (6).
- (2) Where the original notice was registered on the application of a planning authority, the authority must, as soon as reasonably practicable after the Scottish Ministers give notice of their determination under section 50(5),

apply to register a notice (a “notice of determination”) in the form prescribed under section 50G.

- (3) Where the original notice was registered on the application of the Scottish Ministers, the Scottish Ministers must, as soon as reasonably practicable after making their determination under section 50(4) or (6), apply to register a notice of determination.
- (4) A notice of determination must specify the amount given by the Scottish Ministers as the amount recoverable in connection with a notice of determination under section 50(5).
- (5) Where the amount recoverable (“amount A”) is less than the amount specified as the expenses of the works in the original notice (“amount B”), amount B is, on registration of the notice of determination, to be treated as amount A.
- (6) The Keeper of the Registers of Scotland is not required to investigate or determine whether the information contained in any notice of determination submitted for registration is accurate.

#### **50E Discharge of notice of liability for expenses and notice of renewal**

- (1) Subsections (2) and (3) apply where—
  - (a) a notice of liability for expenses (in this section, the “original notice”) in relation to a listed building, or a notice of renewal in relation to the original notice, is registered, and
  - (b) any liability for expenses under section 50(2) to which the original notice relates has been fully discharged.
- (2) Where the original notice was registered on the application of a planning authority, the authority must apply to register a notice (a “notice of discharge”) in the form prescribed under section 50G stating that liability has been fully discharged.
- (3) Where the original notice was registered on the application of the Scottish Ministers, the Scottish Ministers must apply to register a notice of discharge.
- (4) On being registered, a notice of discharge—
  - (a) discharges the notice of liability for expenses, or
  - (b) where a notice of renewal in relation to the original notice is registered, discharges the notice of renewal.
- (5) The Keeper of the Registers of Scotland is not required to investigate or determine whether the information contained in any notice of discharge submitted for registration is accurate.

#### **50F Meaning of “register” in relation to notices**

In relation to—

- (a) a notice of liability for expenses,
- (b) a notice of renewal,
- (c) a notice of determination,
- (d) a notice of discharge,

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“register” means register the information contained in the notice in question in the Land Register of Scotland or, as appropriate, record the notice in question in the Register of Sasines; and “registered” and other related expressions are to be construed accordingly.

### **50G Power to prescribe forms**

- (1) The Scottish Ministers may prescribe—
  - (a) the form of the notices mentioned in subsection (2), and
  - (b) the information to be contained in such notices (in addition to any required to be contained in them by virtue of any other provision of this Act).
- (2) The notices are—
  - (a) a notice of liability for expenses,
  - (b) a notice of renewal,
  - (c) a notice of determination,
  - (d) a notice of discharge.”.
- (4) In section 12 of the Land Registration (Scotland) Act 1979 (c.33), in subsection (3) (which specifies losses for which there is no entitlement to be indemnified by the Keeper under that section), after paragraph (s) add—
  - “(t) the loss arises in consequence of an inaccuracy in any information contained in—
    - (i) a notice of liability for expenses registered in pursuance of section 50A of the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997 (c.9);
    - (ii) a notice of renewal registered in pursuance of section 50C of that Act;
    - (iii) a notice of determination registered in pursuance of section 50D of that Act; or
    - (iv) a notice of discharge registered in pursuance of section 50E of that Act.”.