



Building (Scotland) Act 2003

2003 asp 8

PART 5

GENERAL

Execution of work

44 Expenses

- (1) Subsection (2) applies where a local authority serves on a person a demand for payment of expenses incurred by the authority in carrying out work in relation to a building under section 25(7)(b), 26(3)(b), 27(7)(b), 28(10)(b), 29(2) or (3) or 30(4)(b) [^{F1}or makes a charging order under section 46A].
- (2) If the person proves—
 - (a) that the person has no interest in the building except in the capacity of a trustee, tutor, curator, guardian, judicial factor or liquidator of a company, and
 - (b) that the total amount of the funds, rents and other assets in the person's hands in that capacity since the date of the service of the demand is insufficient to discharge the whole demand [^{F2} or the whole of the repayable amount due under the charging order],the person's liability is limited to that total amount.
- (3) If a person alleges that expenses incurred or to be incurred in complying with a building regulations compliance notice, a continuing requirement enforcement notice, a building warrant enforcement notice, a defective building notice or a dangerous building notice should be borne to any extent by any other person having an interest in the building, the person may, by summary application, apply to the sheriff.
- (4) On such an application the sheriff may make such order as the sheriff thinks fit having regard to all the circumstances, including any contract between the parties.
- (5) The decision of the sheriff on an application under subsection (3) is final.

Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 2003, Cross Heading: Execution of work. (See end of Document for details)

Textual Amendments

- F1** Words in s. 44(1) inserted (24.1.2015) by [Buildings \(Recovery of Expenses\) \(Scotland\) Act 2014 \(asp 13\)](#), **ss. 1(a)(i)**, 3(2)
- F2** Words in s. 44(2)(b) inserted (24.1.2015) by [Buildings \(Recovery of Expenses\) \(Scotland\) Act 2014 \(asp 13\)](#), **ss. 1(a)(ii)**, 3(2)

Commencement Information

- I1** S. 44 in force at 1.5.2005 by [S.S.I. 2004/404](#) , **art. 2(1)**

45 Compulsory purchase where owner cannot be found

- (1) This section applies where—
- (a) a local authority has carried out work under section 29(2) or (3) or 30(4)(b), and
 - (b) the expenses incurred in doing so cannot be recovered from the owner of the building because the owner cannot be found.
- (2) In such a case the Scottish Ministers may authorise the local authority to purchase the building and its site compulsorily.
- (3) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 (c. 42) applies in relation to a compulsory purchase under subsection (2) as if that subsection had been in force immediately before the commencement of that Act.
- (4) The local authority may deduct from the compensation payable on a compulsory purchase under that subsection the amount of the expenses referred to in subsection (1) (b) so far as not otherwise recovered.

Commencement Information

- I2** S. 45 in force at 1.5.2005 by [S.S.I. 2004/404](#) , **art. 2(1)**

46 Sale of materials from demolished buildings

- (1) If a building is demolished by a local authority under section 27(7)(b), 29(2) or (3) or 30(4)(b), the authority may sell any building material arising from the demolition.
- (2) The authority may set off the proceeds of any such sale against any sum recoverable by it from the owner of the building or any other person under section 25(7)(b), 26(3) (b), 27(7)(b), 28(10)(b), 29(2) or (3) or 30(4)(b).
- (3) If the proceeds of sale exceed the total of any such sums, the authority must account to the owner or, as the case may be, the other person for the surplus.

Commencement Information

- I3** S. 46 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, Cross
Heading: Execution of work.