



# 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 [<sup>F1</sup>of the First-tier Tribunal] —
- (a) under section 24(1) [<sup>F2</sup>(determination by the First-tier Tribunal)] ,
  - (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,
- [<sup>F3</sup>may seek permission to appeal on a point of law only from the First-tier Tribunal within 30] days of being notified of that decision.
- [<sup>F4</sup>(4A) A third party applicant aggrieved by a decision [<sup>F5</sup>of the First-tier Tribunal] which—
- (a) is mentioned in subsection (4)(a) to (f),
  - (b) was made following an application by the applicant under section 22(1A),
- [<sup>F6</sup>may seek permission to appeal on a point of law only from the First-tier Tribunal within 30] days of being notified of that decision.]
- (5) A tenant [<sup>F7</sup>or a third party applicant] may [<sup>F8</sup>seek permission to appeal on a point of law only from the First-tier Tribunal] against a decision by the [<sup>F9</sup>Chamber President] under section 23(1) within [<sup>F10</sup>30] days of being notified of that decision.
- <sup>F11</sup>(6) .....
- [<sup>F12</sup>(7) On cause shown—
- (a) in the case of an appeal under subsections (1) and (6), the sheriff may hear an appeal after the deadline set by the relevant subsection, and
  - (b) in the case of an appeal under subsections (4), (4A) or (5), the Upper Tribunal may hear an appeal after the deadline set by the relevant subsection.]

#### Textual Amendments

- F1** Words in s. 64(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(14)(a)(i)** (with [sch. 1](#))

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

- F2** Words in s. 64(4)(a) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(a)(ii)** (with sch. 1)
- F3** Words in s. 64(4) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(a)(iii)** (with sch. 1)
- F4** 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.
- F5** Words in s. 64(4A) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(b)(i)** (with sch. 1)
- F6** Words in s. 64(4A) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(b)(ii)** (with sch. 1)
- F7** 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.
- F8** Words in s. 64(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(c)(i)** (with sch. 1)
- F9** Words in s. 64(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Panel) Regulations 2016 (S.S.I. 2016/338), reg. 1(2), **sch. 2 para. 2(14)** (with sch. 1 para. 5)
- F10** Word in s. 64(5) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(c)(ii)** (with sch. 1)
- F11** S. 64(6) repealed (1.12.2017) by Housing (Scotland) Act 2014 (asp 14), s. 104(3), **sch. 1 para. 53(a)**; S.S.I. 2017/330, art. 3, sch.
- F12** S. 64(7) substituted (1.12.2016) by The First-tier Tribunal for Scotland (Transfer of Functions of the Private Rented Housing Committees) Regulations 2016 (S.S.I. 2016/337), reg. 1(2), **sch. 2 para. 6(14)(d)** (with sch. 1)

#### 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—
- 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),
  - quash the decision (and any such notice, demand, order or plan), or
  - make such other order as the sheriff thinks just.
- (2) The [<sup>F13</sup>Upper Tribunal] may determine an appeal under section 64(4) [<sup>F14</sup>, (4A)] or (5) by—
- confirming the decision (and any order or variation made, or certificate granted, in consequence of it),
  - remitting the decision (together with the [<sup>F15</sup>Upper Tribunal's] reasons for doing so) to the [<sup>F16</sup>Chamber President] or, as the case may be, the [<sup>F15</sup>First-tier Tribunal] for reconsideration, or

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- (c) quashing the decision (and any order or variation made, or certificate granted, in consequence of it).

<sup>F17</sup>(3) .....

<sup>F18</sup>(4) .....

- (5) The sheriff's determination [<sup>F19</sup>or Upper Tribunal's decision] 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

- F13** Words in s. 65(2) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(15)(a)(i)** (with sch. 1)
- F14** 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.
- F15** Words in s. 65(2)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(15)(a)(ii)(aa)(bb)** (with sch. 1)
- F16** Words in s. 65(2)(b) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Panel\) Regulations 2016 \(S.S.I. 2016/338\)](#), reg. 1(2), **sch. 2 para. 2(15)** (with sch. 1 para. 5)
- F17** S. 65(3) repealed (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 54**; [S.S.I. 2017/330](#), art. 3, sch.
- F18** S. 65(4) repealed (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 54**; [S.S.I. 2017/330](#), art. 3, sch.
- F19** Words in s. 65(5) inserted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(15)(b)** (with sch. 1)

#### 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 [<sup>F20</sup>section 64(1) or (6)] 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.

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- [<sup>F21</sup>(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 [<sup>F22</sup>section 64(1) or (6)] as the sheriff thinks fit (and the sheriff principal may make such an order in relation to any subsequent appeal).

#### Textual Amendments

- F20** Words in s. 66(1) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(16)(a)** (with sch. 1)
- F21** 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.
- F22** Words in s. 66(4) substituted (1.12.2016) by [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(16)(b)** (with sch. 1)

#### 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}

### [<sup>F23</sup>66A Appeals in relation to section 52

- (1) 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 First-tier Tribunal within 6 months of being notified of that decision.
- (2) The First-tier Tribunal may, on cause shown, hear an appeal after the deadline set by subsection (1).
- (3) The First-tier Tribunal must, unless the Tribunal considers the condition or, as the case may be, refusal appealed against to be reasonable, determine an appeal under subsection (1) by quashing the decision and directing the landlord to withdraw the condition (or to vary it in such manner as the Tribunal may specify) or, as the case may be, to consent to the application (with or without such conditions as the Tribunal may specify).

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- (4) In determining whether a condition or refusal appealed against under subsection (1) is reasonable, the First-tier Tribunal 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 Commission for Equality and Human Rights which relates to section 52 or 53.
- (5) The First-tier Tribunal's determination on an appeal under subsection (1) is final.]

**Textual Amendments**

- F23** S. 66A inserted (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 18(1)**, 104(3); S.S.I. 2017/330, art. 3, sch.

<sup>F24F25</sup>**67 Adaptations: power to change method of appeal**

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**Textual Amendments**

- F24** S. 67 omitted (1.12.2016) by virtue of [The First-tier Tribunal for Scotland \(Transfer of Functions of the Private Rented Housing Committees\) Regulations 2016 \(S.S.I. 2016/337\)](#), reg. 1(2), **sch. 2 para. 6(17)** (with sch. 1)
- F25** S. 67 expressed to be repealed (1.12.2017) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), s. 104(3), **sch. 1 para. 55**; S.S.I. 2017/330, art. 3, sch.

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Cross  
Heading: Appeals.