



Housing (Scotland) Act 1987

1987 CHAPTER 26

PART VI

CLOSING AND DEMOLITION ORDERS

Possession

127 Recovery of possession of building or house subject to closing order, etc.

- (1) Where a closing order, a demolition order, or a resolution passed under section 125 has become operative, the local authority shall serve on the occupier of any building or house or any part thereof to which the order or resolution relates a notice—
 - (a) stating the effect of the order or resolution, and
 - (b) specifying the date by which the order or resolution requires the building or house to be vacated, and
 - (c) requiring the occupier to remove from the building or house before the said date or before the expiration of 28 days from the service of the notice, whichever may be the later.
- (2) If at any time after the date on which a notice under subsection (1) requires a building or house to be vacated, any person is in occupation of the building or house or of any part of it, the local authority or any owner of the building or house may make a summary application for removal and ejection to the sheriff.
- (3) The sheriff may, after requiring service of such additional notice (if any) as he thinks fit, grant warrant for ejection giving vacant possession of the building or house or of the part of it in question to the authority or owner, as the case may be, within such period, not being less than 2 weeks nor more than 4 weeks, as the sheriff may determine.
- (4) Subject to subsection (5), any expenses incurred by a local authority under this section in obtaining possession of any building or house or part thereof may be recovered by them from the owner of the building or house.

Changes to legislation: Housing (Scotland) Act 1987, Cross Heading: Possession is up to date with all changes known to be in force on or before 11 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (5) Subsection (4) does not apply to expenses incurred in obtaining possession of—
- (a) premises to which a resolution passed under section 125 applies; or
 - (b) any other premises unless the owner has failed to make within a reasonable time a summary application for removal and ejection to the sheriff or, having made such an application, has failed to take all steps necessary to have the application disposed of within a reasonable time.
- (6) Any person who, knowing that a demolition order or a resolution passed under section 125 has become operative and applies to any building or house, enters into occupation of that building or house or any part of it after the date by which the order or resolution requires that building or house to be vacated, or permits any other person to enter into such occupation after that date, shall be guilty of an offence and shall be liable on summary conviction—
- (a) to a fine not exceeding level 5 on the standard scale, or to imprisonment for a term not exceeding 3 months or to both such fine and such imprisonment; and
 - (b) in the case of a continuing offence to a further fine of £5 for every day, or part of a day, on which the occupation continues after conviction.

128 [F1 Recovery of possession of house subject to statutorily regulated tenancy]

[F2(1)] Nothing in [F3 an enactment mentioned in subsection (2)] shall be deemed to affect the provisions of this Act relating to obtaining possession of a house with respect to which a closing order, or a demolition order has been made or to which a resolution passed under section 125 applies, or to prevent possession being obtained—

- (a) of any house possession of which is required for the purpose of enabling a local authority to exercise their powers under any enactment relating to housing;
- (b) of any house possession of which is required for the purpose of securing compliance with any byelaws made for the prevention of overcrowding;
- (c) of any premises by any owner in a case where an undertaking has been given under this Part that those premises shall not be used for human habitation.

[F4(2) The enactments referred to in subsection (1) are—

- (a) the Rent (Scotland) Act 1984;
- (b) Part II of the Housing (Scotland) Act 1988;
- (c) the Private Housing (Tenancies) (Scotland) Act 2016.]

Textual Amendments

- F1** S. 128 heading substituted (1.12.2017) by virtue of [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(d\)](#); S.S.I. 2017/346, reg. 2, sch.
- F2** S. 128(1): s. 128 renumbered as s. 128(1) (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(b\)](#); S.S.I. 2017/346, reg. 2, sch.
- F3** Words in s. 128 substituted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(a\)](#); S.S.I. 2017/346, reg. 2, sch.
- F4** S. 128(2) inserted (1.12.2017) by [Private Housing \(Tenancies\) \(Scotland\) Act 2016](#) (asp 19), s. 79(2), [sch. 4 para. 4\(6\)\(c\)](#); S.S.I. 2017/346, reg. 2, sch.

Changes to legislation:

Housing (Scotland) Act 1987, Cross Heading: Possession is up to date with all changes known to be in force on or before 11 September 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 21(3)(i)s. 21(3)(ai)(ii) by [2001 asp 10 Sch. 10 para. 13\(3\)\(c\)para. 13\(I\)-\(iii\)](#)
- s. 24(3)(f) and word(s) inserted by [2003 asp 10 s. 5\(1\)](#) (This amendment not applied to legislation.gov.uk. S. 5 omitted (31.12.2012) without ever being in force by virtue of S.S.I. 2012/330, arts. 1, 13)
- s. 31(2C)(c) words substituted by [2004 asp 8 Sch. 4 para. 2](#)
- s. 61(2)(a)(ia) by [2001 asp 10 Sch. 10 para. 13\(6\)\(a\)\(ii\)](#)
- s. 63(1A)-(61C) by [2001 asp 10 s. 46\(2\)](#)
- s. 66(1)(vi)(vii) by [2001 asp 10 Sch. 10 para. 13\(9\)\(b\)](#)
- s. 286(a)(c) by [2001 asp 10 Sch. 10 para. 13\(40\)\(a\)\(b\)](#)