



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART VIII

#### HOUSES IN MULTIPLE OCCUPATION

##### *Appeals*

#### **186 Appeal against control order.**

- (1) Any person having [<sup>F1</sup>a right] or interest in a house to which a control order relates, or, subject to subsection (2), any other person, may appeal to the sheriff against the control order at any time after the making of the control order, but not later than the expiry of a period of 6 weeks from the date on which a copy of the relevant scheme is served in accordance with section 184(1).
- (2) The sheriff may, before entertaining an appeal by a person who had not, when he brought the appeal, [<sup>F1</sup>a right] or interest in the house, require the appellant to satisfy the sheriff that he may be prejudiced by the making of the control order.
- (3) The grounds of appeal are—
  - (a) that (whether or not the local authority have made an order or issued a notice or direction under sections 157, 160, 161 or 166) the state or condition of the house was not such as to call for the taking of action under any of those provisions;
  - (b) that it was not necessary to make the control order in order to protect the safety, welfare or health of persons living in the house;
  - (c) where part of the house was occupied by the dispossessed proprietor when the control order came into force, that it was practicable and reasonable for the local authority to exercise their powers under section 178(2) so as to exclude from the provisions of the control order a part of the house (or a greater part of the house than has been excluded);
  - (d) that the control order is invalid on the ground that any requirement of this Act has not been complied with or on the ground of some informality, defect or error in or in connection with the control order.

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Housing (Scotland) Act 1987, Cross Heading: Appeals is up to date with all changes known to be in force on or before 09 May 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)*

- (4) In so far as an appeal under this section is based on the ground that the control order is invalid, the sheriff shall confirm the control order unless satisfied that interests of the appellant have been substantially prejudiced by the facts relied on by him.
- (5) A control order shall, subject to the right of appeal conferred by this section, be final and conclusive as to any matter which could have been raised on any such appeal.
- (6) Where a control order is revoked on an appeal under this section, the local authority shall as soon as practicable thereafter cause to be recorded in the General Register of Sasines or registered in the Land Register, as the case may be, a notice stating that the control order has been revoked as aforesaid.

#### **Textual Amendments**

- F1** Words in s. 186(1)(2) substituted (28.11.2004) by [Abolition of Feudal Tenure etc. \(Scotland\) Act 2000](#) (asp 5), ss. 71, 77(2), **sch. 12 para. 48(11)** (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

### **187 Control order revoked on appeal.**

- (1) This section shall have effect if a control order is revoked by the sheriff on an appeal against the control order.
- (2) If the local authority are in the course of carrying out any works in the house which, if a control order were not in force, the authority would have power to require some other person to carry out under the provisions of this Part or under any other enactment relating to housing or public health, and on the hearing of the appeal the sheriff is satisfied that the carrying out of the works could not be postponed until after the determination of the appeal because the works were urgently required for the sake of the safety, welfare or health of persons living in the house, or of other persons, the sheriff may suspend the revocation of the control order until the works have been completed.
- (3) Part II of Schedule 11 has effect in relation to matters arising on the revocation of a control order on appeal.

**Status:**

Point in time view as at 28/11/2004.

**Changes to legislation:**

Housing (Scotland) Act 1987, Cross Heading: Appeals is up to date with all changes known to be in force on or before 09 May 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.