

Status: Point in time view as at 01/02/1991.

Changes to legislation: Housing (Scotland) Act 1987, SCHEDULE 9 is up to date with all changes known to be in force on or before 10 May 2024. 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)

SCHEDULES

SCHEDULE 9

Sections 109(5), 131(2), 164(4).

RECOVERY OF EXPENSES BY CHARGING ORDER

Modifications etc. (not altering text)

C1 Sch. 9 applied (27.8.1993) by 1993 c. 11, ss. 62(2)(a)(ii), 68(2).

- 1 —Where under sections 108(3), 131(2) and 164(4) a local authority have themselves incurred expenses in relation to a house or building, they may make in favour of themselves an order (in this Schedule referred to as a “charging order”) providing and declaring that the house or building is thereby charged and burdened with an annuity to pay the amount of the expenses.
- 2 —The annuity charged shall be such sum not exceeding such sum as may be prescribed, as the local authority may determine for every £100 of the said amount and so in proportion for any less sum, and shall commence from the date of the order and be payable for a term of 30 years to the local authority.
- 3 —A charging order shall be in such form as may be prescribed and shall be recorded in the General Register of Sasines, or registered in the Land Register, as the case may be.
- 4 —Every annuity constituting a charge by a charging order duly recorded in the General Register of Sasines or registered in the Land Register, as the case may be, shall be a charge on the premises specified in the order and shall have priority over—
 - (a) all future burdens and incumbrances on the same premises, and
 - (b) all existing burdens and incumbrances thereon except—
 - (i) feuduties, teinds, ground annuals, stipends and standard charges in lieu of stipends;
 - (ii) any charges created or arising under any provision of the Public Health (Scotland) Act 1897 or any Act amending that Act, or any local Act authorising a charge for recovery of expenses incurred by a local authority, or under this Schedule; and
 - (iii) any charge created under any Act authorising advances of public money.
- 5 —A charging order duly recorded in the General Register of Sasines or registered in the Land Register, as the case may be, shall be conclusive evidence that the charge specified therein has been duly created in respect of the premises specified in the order.
- 6 —Every annuity charged by a charging order may be recovered by the person for the time being entitled to it by the same means and in the like manner in all respects as if it were a feuduty.

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- 7 —A charging order and all sums payable thereunder may be from time to time transferred in like manner as a bond and disposition in security and sums payable thereunder.
- 8 —Any owner of, or other person interested in, premises on which an annuity has been charged by any such charging order shall at any time be at liberty to redeem the annuity on payment to the local authority or other person entitled thereto of such sum as may be agreed upon or, in default of agreement, determined by the Secretary of State.

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