Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART I

LISTED BUILDINGS

CHAPTER IV

ENFORCEMENT

38   Execution of works required by listed building enforcement notice.

(1) If any of the steps specified in the listed building enforcement notice have not been taken within the period for compliance with the notice, the authority may—

    (a)   enter on the land and take those steps, and

    (b)   recover from the person who is then the owner or lessee of the land any expenses reasonably incurred by them in doing so.

(2) Where a listed building enforcement notice has been served in respect of a building—

    (a)   any expenses incurred by the owner, lessee or occupier of a building for the purpose of complying with it, and

    (b)   any sums paid by the owner or lessee of a building under subsection (1) in respect of expenses incurred by the planning authority in taking steps required by it,

shall be deemed to be incurred or paid for the use and at the request of the person who carried out the works to which the notice relates.

(3) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by a listed building enforcement notice, the sheriff may by warrant authorise the owner to go on the land and carry out that work.

(4) A planning authority taking steps under subsection (1) may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal.

(5) After any such sale the planning authority shall pay the proceeds to the owner less the expenses recoverable by them from him.

(6) Where a planning authority seek, under subsection (1), to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—

(a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person, and

(b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands on behalf of that other person.

(7) A planning authority who by reason of subsection (6) have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.

(8) Any person who wilfully obstructs a person acting in the exercise of powers under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Modifications etc. (not altering text)

C1   Ss. 28-41I applied (with modifications) (1.10.2015) by The Planning (Listed Building Consent and Conservation Area Consent Procedure) (Scotland) Regulations 2015 (S.S.I. 2015/243), regs. 1, 15, **sch. 3** (with reg. 2)

Changes to legislation:
Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 38 is up to date with all changes known to be in force on or before 11 April 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.
View outstanding changes

> **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. 82(1)(aa)-(ad) inserted by 2006 asp 17 s. 55(5)