



Housing (Cladding Remediation) (Scotland) Act 2024

2024 asp 7

PROSPECTIVE

PART 2

POWERS TO ASSESS AND ADDRESS DANGER

CHAPTER 1

SCOTTISH MINISTERS' POWERS

Powers to assess danger

3 Power to arrange single-building assessment

- (1) The Scottish Ministers may arrange for a single-building assessment to be carried out in relation to a building.
- (2) Anything that needs to be done on premises for the purposes of carrying out an assessment arranged under [subsection \(1\)](#) may not be done, without the consent of the premises' owner, before the end of the notice period.
- (3) The notice period is a period of 7 days beginning with the day that the Scottish Ministers give the premises' owner a written notice explaining what the carrying out of the assessment may entail.
- (4) At the same time as giving notice to the premises' owner in order to begin the notice period, the Scottish Ministers are to give a written notice in the same terms to any occupier of the premises.

Status: This version of this part contains provisions that are prospective.
Changes to legislation: *There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)*

Commencement Information

II S. 3 not in force at Royal Assent, see [s. 39\(2\)](#)

4 Power to arrange additional work assessment

- (1) The Scottish Ministers may arrange for an additional work assessment to be carried out in relation to a building in relation to which a single-building assessment has been carried out.
- (2) Subsection (3) applies where—
 - (a) something needs to be done on premises for the purposes of carrying out an assessment arranged under subsection (1), and
 - (b) the premises are not premises on which a person carrying out work under an arrangement made under [this Chapter](#) is entitled, by virtue of [section 13](#), to do anything reasonably required to carry out that work.
- (3) Anything that needs to be done on the premises for the purposes of carrying out an assessment arranged under subsection (1) may not be done, without the consent of the owner, before the end of the notice period.
- (4) The notice period is a period of 7 days beginning with the day that the Scottish Ministers give the premises' owner a written notice explaining what the carrying out of the assessment may entail.
- (5) At the same time as giving notice to the premises' owner in order to begin the notice period, the Scottish Ministers are to give a written notice in the same terms to any occupier of the premises.

Commencement Information

I2 S. 4 not in force at Royal Assent, see [s. 39\(2\)](#)

5 Power to require information for assessments and the register

- (1) The Scottish Ministers may require any person to supply them with information which is reasonably required—
 - (a) by a person for the purpose of carrying out a single-building assessment or an additional work assessment, or
 - (b) by them for the purpose of maintaining the cladding assurance register.
- (2) A requirement under [subsection \(1\)](#) is imposed on a person by the Scottish Ministers giving the person a written notice specifying—
 - (a) the information, or the nature of the information, which is to be supplied,
 - (b) the form in which it is to be supplied,
 - (c) the date on or by which it is to be supplied,
 - (d) why it is required.
- (3) A person may not be required under [subsection \(1\)](#) to supply information which that person would be entitled to refuse to provide in proceedings in a court in Scotland.

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Changes to legislation: There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)

(4) The Scottish Ministers may relieve a person from a requirement to supply information under [subsection \(1\)](#) by giving the person a written notice to that effect.

(5) In [this section](#), “information” includes unrecorded information.

Commencement Information

I3 S. 5 not in force at Royal Assent, see [s. 39\(2\)](#)

6 Offence of failing to comply with requirement under [section 5](#)

(1) A person who is required under [section 5\(1\)](#) to supply information commits an offence if the person fails, without reasonable excuse, to supply the information in the required form by the date on or by which it is to be supplied.

(2) A person who commits an offence under [subsection \(1\)](#) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I4 S. 6 not in force at Royal Assent, see [s. 39\(2\)](#)

Powers to address danger

7 Power to arrange remediation work

(1) The Scottish Ministers may arrange for work to be carried out that is identified as being needed to eliminate or mitigate risks to human life that are (directly or indirectly) created or exacerbated by a building’s external wall cladding system in—

- (a) a single-building assessment report, or
- (b) an additional work assessment report.

(2) Work arranged under [subsection \(1\)\(a\)](#) or (b) may not begin on premises, without the consent of the premises’ owner—

- (a) before the end of the notice period in relation to the work identified as mentioned in [subsection \(1\)\(a\)](#) or, as the case may be, (b), or
- (b) if an appeal against the decision to arrange for the work to be carried out is made within that period, before the appeal is finally determined or withdrawn.

(3) The notice period is a period of 21 days beginning with the day that the Scottish Ministers give the premises’ owner a written notice explaining—

- (a) what work is to be carried out,
- (b) what a person carrying it out is entitled to do by [section 13](#),
- (c) the right to appeal under [section 12](#) against the decision to arrange for the work to be carried out.

(4) At the same time as giving notice to the premises’ owner in order to begin the notice period, the Scottish Ministers are to give a written notice in the same terms to any occupier of the premises.

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Changes to legislation: There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)

Commencement Information

I5 S. 7 not in force at Royal Assent, see [s. 39\(2\)](#)

8 Power to arrange urgent remediation work

- (1) The Scottish Ministers may arrange for work to be carried out where—
 - (a) the work is identified as being needed to eliminate or mitigate a risk to human life that is (directly or indirectly) created or exacerbated by a building’s external wall cladding system either—
 - (i) in a single-building assessment report or an additional work assessment report, or
 - (ii) by a person carrying out a single-building assessment or an additional work assessment raising the risk with the Scottish Ministers before completing the assessment, and
 - (b) the risk to human life is so immediate that it would be inappropriate to delay the work starting by arranging for it to be carried out under [section 7](#) instead.
- (2) Where the Scottish Ministers arrange under [subsection \(1\)](#) for work to be carried out on premises, they are to give the premises’ owners and occupiers such notice of the work (if any) as the circumstances permit.

Commencement Information

I6 S. 8 not in force at Royal Assent, see [s. 39\(2\)](#)

9 Power to evacuate

- (1) The Scottish Ministers may require the occupants of premises to remove from them in any of the following circumstances—
 - (a) in the Scottish Ministers’ opinion—
 - (i) there is a substantial risk to the occupants’ lives, or
 - (ii) continued occupation of the premises would mean that there would be a substantial risk to the lives of the occupants of any other premises, due (directly or indirectly) to the external wall cladding system of a building that is undergoing, or has undergone, a single-building assessment or an additional work assessment,
 - (b) the Scottish Ministers have arranged for work to be carried out under [section 7](#) or [8](#) and, in their opinion, the occupants of the premises may be endangered by the carrying out of the work.
- (2) A requirement to remove from premises in the circumstance mentioned in [subsection \(1\)\(a\)](#)—
 - (a) may be imposed by informing the occupants verbally, or by giving them written notice, that they are to remove from the premises,
 - (b) may require the occupants to remove from the premises immediately.
- (3) A requirement to remove from premises in the circumstance mentioned in [subsection \(1\)\(b\)](#)—

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- (a) may be imposed only by giving the occupants a written notice that they are to remove from the premises by a date specified in the notice,
 - (b) may not require the occupants to remove before the end of the 14 day period beginning with the day that the notice required by [paragraph \(a\)](#) is given.
- (4) Having imposed a requirement to remove from premises under [this section](#), and having since become satisfied that no-one would be endangered by occupying the premises, the Scottish Ministers must—
- (a) cause notice to that effect to be conspicuously displayed on or near the premises for a period of at least 14 days, and
 - (b) take all reasonable steps to give notice to that effect to any person who—
 - (i) removed from the premises in accordance with a requirement imposed under [this section](#), or
 - (ii) was ejected from them by virtue of a warrant granted under [paragraph 3 of the schedule](#).
- (5) A person's tenancy of premises is not to be taken to have been terminated, varied or altered by reason of the person's—
- (a) removing from the premises in accordance with a requirement imposed under [this section](#), or
 - (b) being ejected from the premises by virtue of a warrant granted under [paragraph 3 of the schedule](#).
- (6) [The schedule](#) makes provision about the granting of warrants for the ejection of occupants required to remove under [this section](#).

Commencement Information

I7 S. 9 not in force at Royal Assent, see [s. 39\(2\)](#)

10 Offence of occupying evacuated premises

- (1) A person commits an offence if the person occupies premises when forbidden to do so.
- (2) A person is forbidden to occupy premises during the period that—
- (a) begins with the person's—
 - (i) removing from the premises in accordance with a requirement imposed under [section 9](#), or
 - (ii) being ejected from the premises by virtue of a warrant granted under [paragraph 3 of the schedule](#), and
 - (b) ends with the first day on which notice is displayed in accordance with [section 9\(4\)\(a\)](#) that the Scottish Ministers have become satisfied that no-one would be endangered by occupying the premises.
- (3) A person who commits an offence under [subsection \(1\)](#) is liable on summary conviction to—
- (a) a fine not exceeding level 5 on the standard scale,
 - (b) a term of imprisonment not exceeding 3 months, or
 - (c) both.

Status: This version of this part contains provisions that are prospective.
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Commencement Information

I8 S. 10 not in force at Royal Assent, see [s. 39\(2\)](#)

Personal emergency evacuation plans

11 Personal emergency evacuation plans

- (1) The Scottish Ministers may by regulations make provision in relation to the development and provision of personal emergency evacuation plans for occupiers of a building to which a single-building assessment applies who have a disability.
- (2) Regulations must provide for any personal emergency evacuation plan to expire on the day on which the Scottish Ministers amend the cladding assurance register under section 1(3)(c) to confirm that all necessary works have been completed.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.

Commencement Information

I9 S. 11 not in force at Royal Assent, see [s. 39\(2\)](#)

Appeal

12 Appeal against arranged remediation work

- (1) The owner of premises, having received notice under [section 7](#) that the Scottish Ministers have arranged for work to be carried out on the premises, may appeal to the sheriff against the Scottish Ministers' decision to make that arrangement.
- (2) An appeal may be made under [this section](#)—
 - (a) without the sheriff's permission within the 21 day period described by [section 7\(3\)](#),
 - (b) only with the sheriff's permission on cause shown outwith that period.
- (3) The sheriff must—
 - (a) hold a hearing on an appeal under this section within 21 days of the appeal being made, and
 - (b) give the parties to the appeal an opportunity to make representations at the hearing.
- (4) At the hearing, the sheriff may—
 - (a) determine the appeal, or
 - (b) on a motion of a party or on the sheriff's own initiative, continue the proceedings.
- (5) In deciding whether to continue the proceedings and, if so, to when, the sheriff must have regard to all the circumstances of the case, including the effect that any continuation of proceedings would have in relation to the elimination or mitigation of risks to human life that—

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- (a) are (directly or indirectly) created or exacerbated by a building’s external wall cladding system, and
 - (b) were identified in the single-building assessment report or the additional work assessment report which identified the need for the work to which the decision appealed relates.
- (6) On an appeal under [this section](#), the sheriff may—
- (a) dismiss it,
 - (b) order that only some of the work in question be carried out,
 - (c) order that none of the work be carried out,
 - (d) make any other order the sheriff thinks just.
- (7) The decision of the sheriff on an appeal under [this section](#) is final.

Commencement Information

I10 S. 12 not in force at Royal Assent, see [s. 39\(2\)](#)

CHAPTER 2

CARRYING OUT ASSESSMENTS AND WORK

13 Authority for carrying out assessment or work

- (1) A person carrying out, under an arrangement made under [Chapter 1](#), a single-building assessment, an additional work assessment or work is entitled by [this subsection](#) to do anything reasonably required to carry out that assessment or work, including—
- (a) entering premises (subject to [subsections \(3\)](#) and [\(4\)\(a\)](#)),
 - (b) taking other persons, and equipment, onto premises,
 - (c) removing things from premises and arranging for their retention until claimed by a person having a right of possession to them,
 - (d) carrying out reasonable tests to determine the properties of any material.
- (2) [Subsection \(1\)](#) does not, of itself, entitle a person to use force to enter premises (for that a warrant is required under [section 14](#)).
- (3) [Subsection \(1\)](#) does not entitle a person to enter Crown premises without the owner’s consent.
- (4) A person entitled to enter premises by [subsection \(1\)](#)—
- (a) is entitled by that subsection to do so—
 - (i) only at a reasonable time of day, and
 - (ii) only if the premises’ occupants have been given at least 24 hours’ notice (subject to [subsection \(5\)](#)),
 - (b) if requested to do so when seeking entry to the premises, or while on them, must produce written evidence of the legal basis for the person’s entitlement to enter them,
 - (c) must leave the premises no less effectually secured against unauthorised entry as the person found them.

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Changes to legislation: *There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)*

- (5) The requirement for notice under [subsection \(4\)\(a\)\(ii\)](#) does not apply in an urgent situation.
- (6) A person's entitlement to do anything mentioned in [this section](#) is subject to any contrary or qualifying provision in a warrant under [section 14](#).
- (7) Nothing in [this section](#) entitles a person to do any thing—
 - (a) in breach of [section 3\(2\)](#), [4\(3\)](#) or [7\(2\)](#),
 - (b) without any warrant, permission, consent or other approval (however described) from a public authority that would ordinarily be required in relation to doing the thing.

Commencement Information

I11 S. 13 not in force at Royal Assent, see [s. 39\(2\)](#)

14 Warrant authorising use of force to effect entry

- (1) The holder of a judicial office mentioned in [subsection \(6\)](#) may grant a warrant authorising a person entitled to enter premises by [section 13\(1\)](#) to use reasonable force in accordance with the terms of the warrant.
- (2) An application for a warrant under this section may be made only by the Scottish Ministers.
- (3) A warrant under this section may be granted only if the judicial office-holder is satisfied, by evidence on oath—
 - (a) that there are reasonable grounds for the person to enter the premises for the purpose of doing something the person is entitled to do by [section 13\(1\)](#), and
 - (b) that—
 - (i) entry to the premises has been refused,
 - (ii) such a refusal is reasonably expected,
 - (iii) the premises are unoccupied,
 - (iv) the premises' occupier is temporarily absent,
 - (v) the case is one of urgency, or
 - (vi) that an application for admission would defeat the object of the proposed entry.
- (4) A judicial office-holder may not be satisfied that a condition specified by any of [sub-paragraphs \(ii\) to \(iv\)](#) of [subsection \(3\)\(b\)](#) is met unless the office-holder is also satisfied that notice of intention to apply for a warrant has been given to the premises' occupier.
- (5) A warrant under [this section](#) ceases to have effect—
 - (a) when the purpose for which it was granted is fulfilled, or
 - (b) if the warrant specifies a date for its own expiry, on that date (if it has not already ceased to have effect by virtue of [paragraph \(a\)](#)).
- (6) The judicial offices referred to in [subsection \(1\)](#) are—
 - (a) sheriff,
 - (b) summary sheriff.

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Changes to legislation: There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)

Commencement Information

I12 S. 14 not in force at Royal Assent, see [s. 39\(2\)](#)

15 Offence of obstructing assessment or work

- (1) A person (“A”) commits an offence if—
- another person (“B”) is carrying out a single-building assessment, an additional work assessment or work arranged under [Chapter 1](#),
 - the use of reasonable force by B is authorised in connection with the carrying out of the assessment or work by a warrant under [section 14](#), and
 - without reasonable excuse, A intentionally obstructs B from doing something that B is entitled to do by [section 13\(1\)](#).
- (2) A person who commits an offence under [this section](#) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I13 S. 15 not in force at Royal Assent, see [s. 39\(2\)](#)

16 Offence of failing to assist with assessment or work

- (1) A person (“A”) commits an offence if—
- another person (“B”)—
 - is on premises carrying out a single-building assessment, an additional work assessment or work arranged under [Chapter 1](#), and
 - reasonably requests assistance or information from A for the purposes of carrying out the assessment or work,
 - the use of reasonable force by B is authorised in connection with the carrying out of the assessment or work by a warrant under [section 14](#),
 - A is either—
 - also on the premises, or
 - is the owner or occupier of the premises, and
 - without reasonable excuse A fails to provide the requested assistance or information.
- (2) A person who commits an offence under [this section](#) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Commencement Information

I14 S. 16 not in force at Royal Assent, see [s. 39\(2\)](#)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)

CHAPTER 3

NOTICES

17 Power to require information to give notice

- (1) The Scottish Ministers may, for the purpose of enabling them to give a notice under [this Part](#), require any person to whom [subsection \(2\)](#) applies to state, in writing, to the Ministers—
 - (a) the nature of the person’s interest in the premises in connection with which the notice is to be given, and
 - (b) the name and address of any other person known by that person to have an interest in the premises.
- (2) [This subsection](#) applies to the following—
 - (a) the owner of the premises in question,
 - (b) the occupier of the premises,
 - (c) any person who receives rent (directly or indirectly) in respect of the premises.
- (3) A requirement under [subsection \(1\)](#) is imposed on a person by the Scottish Ministers giving the person notice of—
 - (a) the information required, and
 - (b) the deadline for providing it.
- (4) A person may not be required under [subsection \(1\)](#) to disclose any information which that person would be entitled to refuse to provide in proceedings in a court in Scotland.
- (5) The Scottish Ministers may relieve a person from a requirement to provide information under [subsection \(1\)](#) by giving the person a written notice to that effect.
- (6) A person who is required under [subsection \(1\)](#) to provide information commits an offence if the person—
 - (a) without reasonable excuse fails to provide it by the deadline, or
 - (b) knowingly or recklessly provides in response to the requirement a statement that is false, or misleading, in a material particular.
- (7) A person who commits an offence under [subsection \(6\)](#) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Commencement Information

I15 S. 17 not in force at Royal Assent, see [s. 39\(2\)](#)

18 Giving notice where recipient’s address is unknown

- (1) Where—
 - (a) under [this Part](#), the Scottish Ministers are required to give notice to a person, and
 - (b) despite having made reasonable inquiries they cannot ascertain that person’s proper address,

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Changes to legislation: There are currently no known outstanding effects for the Housing (Cladding Remediation) (Scotland) Act 2024, Part 2. (See end of Document for details)

a written notice is to be taken to have been given to the person 48 hours after the Scottish Ministers cause the notice to be conspicuously displayed on or near the premises in connection with which the notice is to be given.

- (2) In [subsection \(1\)](#), “proper address” has the meaning given in section 26(4) of the Interpretation and Legislative Reform (Scotland) Act 2010.

Commencement Information

I16 S. 18 not in force at Royal Assent, see [s. 39\(2\)](#)

19 Deemed receipt of notice

For the purposes of [this Part](#), where a notice is served as mentioned in section 26(2) (b) or (c) of the Interpretation and Legislative Reform (Scotland) Act 2010, it is to be taken to have been received 48 hours after it is sent.

Commencement Information

I17 S. 19 not in force at Royal Assent, see [s. 39\(2\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the **Housing (Cladding Remediation) (Scotland) Act 2024, Part 2**.