



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART VIII

#### HOUSES IN MULTIPLE OCCUPATION

##### *Supplementary*

#### **171 Application of sections 156 to 161 to certain buildings comprising separate dwellings.**

- (1) Subject to the provisions of this section, sections 156 to 161 apply—
  - (a) to a building which is not a house but comprises separate dwellings, two or more of which lack either or both of the following—
    - (i) a sanitary convenience accessible only to those living in the dwelling, and
    - (ii) personal washing facilities so accessible, and
  - (b) to a building which is not a house but comprises separate dwellings, two or more of which are wholly or partly let in lodgings or occupied by members of more than one family,being in either case a building all the dwellings in which are owned by the same person, as if references in those sections to a house which, or part of which, is let in lodgings or which is occupied by members of more than one family included references to any such building.
- (2) A notice under section 161(3)(b) shall not by virtue of this section be served in respect of such a building.
- (3) A direction under section 166 shall not by virtue of this section be given in relation to such a building.
- (4) If a local authority make an order under section 157, as applied by subsection (1), in respect of any building at a time when another order under that section is in force as respects one of the dwellings in the building, they shall revoke the last-mentioned order.

*Status: Point in time view as at 01/02/1991.*

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- (5) References to a house in sections 163, 164, 175 and 177 shall include references to a building to which this section applies.

**172 Management code to be available for dwellings in certain tenements.**

- (1) If—
- (a) all the dwellings in any tenement are owned by the same person, and
  - (b) all or any of those dwellings are without one or more of the standard amenities,
- sections 156 to 160 shall apply to the tenement as if references in those sections to a house which, or a part of which, is let in lodgings, or which is occupied by members of more than one family included references to the tenement.
- (2) If a local authority make an order under section 157, as applied by subsection (1), in respect of any tenement at a time when another order under that section is in force as respects one of the dwellings in the tenement, they shall revoke the last-mentioned order.
- (3) References to a house in section 163 (so far as relating to appeals against notices under section 160) and in sections 164, 175 and 177 shall include references to a tenement to which this section applies.
- (4) In this section—
- “dwelling” means a building or part of a building occupied or intended to be occupied as a separate house;
  - “tenement” means a building which contains two or more flats.

**173 Warrant to authorise entry.**

- (1) Where it is shown to the satisfaction of the sheriff, or of a justice of the peace or magistrate, on sworn information in writing, that admission to premises specified in the information is reasonably required by a person employed by, or acting on the instructions of, a local authority for the purpose—
- (a) of survey and examination to determine whether any powers under the foregoing provisions of this Part should be exercised in respect of the premises, or
  - (b) of ascertaining whether there has been a contravention of any regulations or direction made or given under the foregoing provisions of this Part,
- then, subject to this section, the sheriff, justice or magistrate may by warrant under his hand authorise that person to enter on the premises for the purposes mentioned in paragraphs (a) and (b), or for such of those purposes as may be specified in the warrant.
- (2) A sheriff, justice or magistrate shall not grant a warrant under this section unless he is satisfied—
- (a) that admission to the premises has been refused and, except where the purpose specified in the information—
    - (i) is the survey and examination of premises to determine whether there has been a failure to comply with a notice under section 160 or section 161 or section 162, or
    - (ii) is to ascertain whether there has been a contravention of any regulations or direction made or given under the foregoing provisions of this Part,

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- that admission was sought after not less than 24 hours' notice of the intended entry had been given to the occupier; or
- (b) that an application for admission to the premises would defeat the object of the entry.
- (3) Every warrant granted under this section shall continue in force until the purpose for which the entry is required has been satisfied.
- (4) Any person who, in the exercise of a right of entry under this section, enters any premises which are unoccupied, or any premises the occupier of which is temporarily absent, shall leave the premises as effectually secured against trespassers as he found them.
- (5) Any power of entry conferred by this section—
- (a) shall include power to [<sup>F1</sup>enter], if need be, by force, and
- (b) may be exercised by the person on whom it is conferred either alone or together with any other persons.

#### Textual Amendments

- F1** Word substituted (*retrospectively*) by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(1), [Sch. 7 para. 7](#)

#### 174 Application to sheriff where consent unreasonably withheld.

If on an application made by any person required by a notice under the foregoing provisions of this Part to execute any works it appears to the sheriff that any other person having an estate or interest in the premises has unreasonably refused to give any consent required to enable the works to be executed, the sheriff may give the necessary consent in place of that other person.

#### 175 Protection of superiors and owners.

- (1) If the superior or owner of any lands and heritages gives notice to the local authority of his estate in those lands and heritages, the authority shall give to him notice of any proceedings taken by them in pursuance of the foregoing provisions of this Part in relation to those lands and heritages or any part thereof.
- (2) Nothing in the foregoing provisions of this Part shall prejudice or interfere with the rights or remedies of any owner for the breach, non-observance or non-performance of any agreement or stipulation entered into by a lessee with reference to any house in respect of which a notice requiring the execution of works is served by a local authority under the foregoing provisions of this Part, or as respects which regulations made under section 156 are for the time being in force; and if any owner is obliged to take possession of a house in order to comply with any such notice the taking possession shall not affect his right to avail himself of any such breach, non-observance or non-performance which has occurred before he so took possession.

#### 176 Identity and notice under Part VIII.

- (1) A local authority shall take reasonable steps to identify the persons mentioned in subsection (2).

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- (2) Those persons are—
- (a) the person having control of or managing premises;
  - (b) the person having an estate or interest in premises or any class of such persons, upon whom the local authority require to serve a document under this Part.
- (3) A person having an estate or interest in premises may for the purposes of this Part give notice to the local authority of his interest in the premises, and the authority shall enter the notice in their records.

## 177 Statutory tenant to be regarded as lessee, etc.

In this Part—

- (a) references to a lessee of a house and to a person to whom a house is let include references to any person who retains possession of the house by virtue of the <sup>M1</sup>Rent (Scotland) Act 1984 [<sup>F2</sup>or Part II of the Housing (Scotland) Act 1988] and not as being entitled to any tenancy; and
- (b) references to a person having an estate or interest in a house include references to any person who retains possession of the house as mentioned in paragraph (a).

### Textual Amendments

**F2** Words inserted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), s. 72(2), [Sch. 9 para. 15](#)

### Marginal Citations

**M1** [1984 c. 58.](#)

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