

*Status: Point in time view as at 28/11/2004.*

*Changes to legislation: Housing (Scotland) Act 1987, Paragraph 5 is up to date with all changes known to be in force on or before 13 June 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 11

#### HOUSES IN MULTIPLE OCCUPATION: CONTROL ORDERS

##### PART II

##### APPEAL AND REVIEW

- 5 (1) If a local authority refuse an application to revoke a control order under section 188(4) or do not within 42 days from the making of the application or within such further period as the applicant may in writing allow, inform the applicant of their decision on the application, the applicant may appeal to the sheriff, and the sheriff may revoke the control order:
- Provided that, if an appeal has been brought under this paragraph then, except with the leave of the sheriff, another appeal shall not be so brought, whether by the same or a different appellant, in respect of the same control order until the expiry of a period of 6 months beginning with the final determination of the first-mentioned appeal.
- (2) If on an appeal under this paragraph the local authority represent to the sheriff that revocation of the control order would unreasonably delay completion of any works of which particulars were given in the relevant scheme under Part VIII and which the authority have begun to carry out, the sheriff shall take the representations into account and may, if he thinks fit, revoke the control order as from the time when the works are completed.
- (3) If an appellant under this paragraph has [<sup>F1</sup>a right] or interest in the house which, apart from the rights conferred on the local authority by the provisions of Part VIII relating to control orders, and apart from the rights of persons occupying any part of the house, would give him the right to possession of the house, and [<sup>F1</sup>that right] or interest was, when the control order came into force, subject to a lease for a term of years which has subsequently expired, then, if that person satisfies the sheriff that he is in a position and intends, if the control order is revoked, to demolish or reconstruct the house or to carry out substantial work of construction on the site of the house, the sheriff shall revoke the control order.
- (4) Where in a case falling under sub-paragraph (3), the sheriff is not satisfied as therein mentioned, but would be so satisfied if the date of revocation of the control order were a date later than the date of the hearing of the appeal, the sheriff shall, if the appellant so requires, make an order for the revocation of the control order on that later date.
- (5) Where the sheriff on an appeal under sub-paragraph (1) decides to revoke a control order in respect of a house from the dispossessed proprietor of which any amount will be recoverable by virtue of Part VIII, the sheriff may make it a condition of the revocation of the control order that the appellant first pays off to the local authority that amount, or such part of that amount, as the sheriff may specify.

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- (6) Where the sheriff on an appeal under sub-paragraph (1) revokes a control order, he may authorise the local authority to create under section 179(2) interests which expire, or which the dispossessed proprietor can terminate, within 6 months from the time when the control order ceases to have effect being interests which, notwithstanding subsection (3) of that section, are for a fixed term exceeding one month, or are terminable by notice to quit (or an equivalent notice) of more than 4 weeks.
- (7) Where a control order is revoked by the local authority under section 188(2), or by the sheriff on an appeal under sub-paragraph (1), 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, the revocation order made by them or, as the case may be, a notice stating that the control has been revoked by the sheriff as aforesaid.

#### Textual Amendments

- F1** Words in Sch. 11 para. 5(3) substituted (28.11.2004) by Abolition of Feudal Tenure etc. (Scotland) Act 2000 (asp 5), ss. 71, 77(2), sch. 12 para. 48(16)(b) (with ss. 58, 62, 75); S.S.I. 2003/456, art. 2

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