



# Housing (Scotland) Act 1987

## 1987 CHAPTER 26

### PART XVI

#### GENERAL AND MISCELLANEOUS

##### *Powers of sheriff for housing purposes*

#### **322 Sheriff may determine lease in certain cases.**

- (1) Where in respect of any premises that are leased—
  - (a) a closing order, a demolition order or a resolution passed under section 125 has become operative, and
  - (b) the lease is not determined,the landlord, the tenant, or any other person deriving right under the lease may apply to the sheriff within whose jurisdiction the premises are situated for an order determining the lease.
- (2) On any such application the sheriff, after giving to any subtenant or other person whom he considers to be interested in the matter an opportunity of being heard, may, if he thinks fit, order that the lease shall be determined, either unconditionally or subject to such terms and conditions (including conditions with respect to the payment of money by any party to the proceedings to any other party thereto by way of compensation or damages or otherwise) as he may think it just and equitable to impose.
- (3) In making an order under subsection (2) the sheriff shall have regard to the respective rights, obligations and liabilities of the parties under the lease and to all the other circumstances of the case.
- (4) The sheriff shall not be entitled to order any payment to be made by the landlord to the tenant in respect of the lease of a house.
- (5) In this section the expression “lease” includes a sublease and any tenancy or tacit relocation following on a lease.

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: Housing (Scotland) Act 1987, Cross Heading: Powers of sheriff for housing purposes is up to date with all changes known to be in force on or before 25 August 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)*

### **323 Sheriff may authorise superior to execute works, etc.**

- (1) Subject to the provisions of this section, the superior of any lands and heritages may apply to the sheriff for an order entitling him to enter on those lands and heritages to execute works (including demolition works) within such period as may be specified in the order.
- (2) The sheriff may make such an order if—
  - (a) the following notices or orders under this Act in respect of those lands and heritages are not being complied with—
    - (i) a notice requiring the execution of works, or
    - (ii) a closing order, or
    - (iii) a notice or resolution requiring the demolition of a building under Part VI, and
  - (b) the interests of the superior are thereby prejudiced, and
  - (c) the sheriff thinks it just to make the order.
- (3) Before an order is made under this section notice of the application shall be given to the local authority.

### **324 Procedure on applications and appeals to sheriff.**

- (1) An application to the sheriff under paragraph 5 of Schedule 10 (restriction on contracting out) or section 110 (recovery of expenses by lessee) or Part VIII (houses in multiple occupation) shall be made by a summary application, and the sheriff's decision on any such application shall be final.
- (2) The Court of Session may prescribe by rules of court the procedure on any appeal to the sheriff under this Act.
- (3) The sheriff may, before considering an appeal which may be made to him under this Act, require the appellant to deposit such sum to cover the expenses of the appeal as may be prescribed by rules of court.
- (4) The sheriff in deciding an appeal under this Act may make such order as he thinks just.
- (5) Any such order shall be final.
- (6) In the case of an appeal against a notice given or an order made by a local authority, the sheriff may either confirm, vary or quash the notice or order.
- (7) The sheriff—
  - (a) may at any stage of the proceedings on an appeal under this Act, state a case to the Court of Session on any question of law that arises;
  - (b) shall do so if so directed by the Court of Session.
- (8) A notice or order in respect of which an appeal lies to the sheriff under this Act (other than Part VIII) shall not have effect until either—
  - (a) the time for appealing has expired without an appeal being made, or
  - (b) in a case where an appeal is made, the appeal is determined or abandoned, and no work shall be done or proceedings taken under such notice or order until it has effect.

**Status:**

Point in time view as at 01/04/2013.

**Changes to legislation:**

Housing (Scotland) Act 1987, Cross Heading: Powers of sheriff for housing purposes is up to date with all changes known to be in force on or before 25 August 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.