



Building (Scotland) Act 1959 (repealed)

1959 CHAPTER 24 7 and 8 Eliz 2

PART IV

SUPPLEMENTARY

16 Appeals.

(1) Any person aggrieved by—

- (a) any decision of a [^{F1}local authority] refusing to grant warrant for the construction or demolition of a building or for a change of use of a building,
- (b) any decision of a [^{F1}local authority] under subsection (5) of section six of this Act refusing to extend a period relating to a building intended to have a limited life,
- (c) any decision of a [^{F1}local authority] refusing to issue a certificate of completion,
- (d) any order made by a [^{F1}local authority] under [^{F2}subsection (1B)] of section ten of this Act requiring the execution of operations,
- (e) any order under section eleven of this Act by a local authority requiring a building to be made to conform to any provision of the building standards regulations,
- (f) any order of a [^{F1}local authority] under subsection (2) of section thirteen of this Act requiring the execution of operations, or
- (g) any charging order made under the Sixth Schedule to this Act,

may [^{F3}(except as provided in section 6B(2) of this Act)] appeal to the sheriff by giving notice of appeal within twenty-one days after the date of the decision or the making of the order, as the case may be:

Provided that on any appeal in a case falling under paragraph (g) of this subsection no question shall be raised which might have been raised on an appeal against the original order requiring the execution of the operations concerned.

(2) The procedure on any appeal to the sheriff under this section shall be such as the Court of Session may by act of sederunt determine; and the powers of the Court of Session

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under this subsection shall include power to make provision as to expenses and as to the sitting with the sheriff of technical assessors.

- (3) On any appeal under this section the sheriff may—
 - (a) if the appeal is in a case falling within paragraph (a) or paragraph (b) or paragraph (c) of subsection (1) of this section, either confirm the decision or direct the substitution of such other decision as seems to him proper, having regard to the provisions of this Act and of any other Act relevant to the decision in question;
 - (b) if the appeal is in a case falling within any other provision of subsection (1) of this section, confirm, vary or quash the order as he thinks just and make such order in the matter as he considers equitable;

and the determination of the sheriff on any such appeal shall be binding on all parties, and shall be final:

Provided that the sheriff may, at any stage of the proceedings on the appeal, and shall whether before or after the conclusion of the proceedings if so directed by the Court of Session, state a case for the opinion of that Court on any question of law arising in connection with the appeal; and an appeal shall lie, with the leave of the Court of Session or of the House of Lords, from any decision of the Court of Session under this section, which leave may be given on such terms as to costs or otherwise as the Court of Session or the House of Lords may determine.

- (4) Any order as respects which an appeal to the sheriff might be brought under this section shall not become operative until either the time within which an appeal can be made under this section has elapsed without an appeal being made, or, in a case where an appeal is made, the appeal (including any further proceedings under the last foregoing subsection) is determined or abandoned.
- (5) The sheriff may, before considering any appeal which may be made to him under this section, require the appellant to deposit such sum to cover the expenses of the appeal as may be fixed by the act of sederunt made by the Court of Session in pursuance of subsection (2) of this section.

(6) F4

Textual Amendments

- F1** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15 para. 1](#)
- F2** Words substituted by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 1 Pt. I para. 5\(a\)](#)
- F3** Words inserted by [Building \(Scotland\) Act 1970 \(c. 38\), Sch. 1 Pt. I para. 5\(b\)](#)
- F4** [S. 16\(6\)](#) repealed by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1966 \(c. 19\), Sch. Pt. I](#)

Modifications etc. (not altering text)

- C1** [S. 16](#) applied by [Agriculture Act 1967 \(c. 22\), Sch. 3 para. 11](#)

17 Supplementary provisions as to operations required to be carried out.

- (1) The provisions of this section shall have effect where a person is required by any order or notice under section ten, eleven or thirteen of this Act (in this section referred to as a “requirement”) to demolish, or carry out operations in relation to, a building.
- (2) If the building is—

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- [^{F5}(a) a building which is for the time being included in the Schedule of monuments compiled and maintained under section 1 of the Ancient Monuments and Archaeological Areas Act 1979]
- [^{F6}(b) subject to a building preservation notice under section 56 of the ^{M1}Town and Country Planning (Scotland) Act 1972]
- [^{F7}(bb) a building to which section 262A of the said Act of 1972 (control of demolition in conservation areas) applies;]
 - (c) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under [^{F8}section 52 of the said Act of 1972], or
 - (d)^{F9}

the requirement shall have effect only in so far as it is not inconsistent with any provision of [^{F10}the said Act of 1979 or][^{F11}the said Act of 1972] the said Act of 1947 . . .^{F12}relating to the execution or carrying out of works or operations on or in relation to the building.

- (3) If the person is not in occupation of the building he shall nevertheless, on giving to the occupier such notice as is reasonable in the circumstances, be entitled, notwithstanding any term to the contrary in any lease or other contract, to enter on the building, and any land adjacent thereto and held in connection therewith, for the purpose of complying with the requirement.
- (4) Where, in pursuance of any provision of the said section ten, eleven or thirteen, the local authority seek to recover from the person any expenses incurred by them in carrying out operations in relation to the building, then, if the person proves—
 - (a) that he has no interest in the building except in the capacity of a trustee, tutor, curator, judicial factor or liquidator of a company, and
 - (b) that he has not, and since the date of the service on him of a demand for payment of the expenses aforesaid has not had, in his hands in that capacity sufficient funds, rents and other assets to discharge the whole demand of the authority,his liability shall, notwithstanding anything in the said section ten, eleven or thirteen, be limited to the total amount of the funds, rents and other assets which he has, or has had, in his hands as aforesaid.
- (5) In the case of a requirement being an order under the said section ten, or the said section eleven, it shall be a defence to any complaint charging the person with failure to comply with the requirement to prove that at the date of the making of the requirement—
 - (a) the person had no interest in the building except in the capacity of a trustee, tutor, curator, judicial factor or liquidator of a company, and
 - (b) the amount of the funds, rents and other assets in his possession in that capacity was less than the amount of the expenses which would have been incurred if the requirement had been complied with.
- (6) If a person alleges that the whole or any part of the expenses incurred or to be incurred in complying with the requirement ought to be borne by any other person having an interest in the building, he may apply to the sheriff, and the sheriff may make such order concerning the expenses or their apportionment as appears to him, having regard to all the circumstances of the case, including the terms of any contract between the parties, to be equitable.

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- (7) The provisions of subsection (3) of the last foregoing section relating to the determination of the sheriff on an appeal under subsection (1) of that section shall apply to the order of the sheriff in an application under the last foregoing subsection as they apply to such a determination, with the substitution for any reference to the appeal under the said subsection (1) of a reference to the application.

Textual Amendments

- F5** S. 17(2)(a) substituted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), s. 64(2), [Sch. 4 para. 6](#)
- F6** S. 17(2)(b) substituted by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 21](#), Pt. II
- F7** S. 17(bb) inserted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 25(1), [Sch. 2 para. 1](#)
- F8** Words substituted by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 21 Pt. II](#)
- F9** S. 17(d) repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), s. 64(3), [Sch. 5](#) (except in relation to a monument to which paragraph 1(1) of Schedule 3 to the 1979 Act applies)
- F10** Words substituted by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), s. 64(2), [Sch. 4 para 6\(c\)](#)
- F11** Words inserted by [Town and Country Planning \(Scotland\) Act 1972 \(c. 52\)](#), [Sch. 21 Pt. II](#)
- F12** Words repealed by [Ancient Monuments and Archaeological Areas Act 1979 \(c. 46, SIF 3\)](#), s. 64(3), [Sch. 5](#) (except in relation to a monument to which paragraph 1(1) of Sch. 3 to the 1979 Act applies)

Marginal Citations

- M1** 1972 c. 52.

18 Inspection and tests.

- (1) Subject to the provisions of subsection (3) of this section [^{F13}any person authorised in writing by a local authority] on exhibiting his authority if requested to do so, may at all reasonable times enter any premises for the purpose of—
- (a) inspecting buildings which are in course of construction, or which have been constructed but for which no certificate of completion has been issued, or the sites of buildings in respect of which applications for directions under section four, or warrants under section six, of this Act have been made;
 - (b) applying any reasonable tests to determine the quality and strength of any material used or proposed to be used in the construction of any building such as is mentioned in the foregoing paragraph;
 - (c) inspecting any buildings as to which the [^{F13}local authority] has reasonable cause to believe that a change of use is proposed or has taken place;
 - (d) inspecting any building which the [^{F13}local authority] has reasonable cause to believe is dangerous to persons inhabiting or frequenting it or adjacent buildings or places or to the public generally; or
 - [^{F14}(e) inspecting any building which the local authority consider should be examined in order to determine whether to exercise their powers under section 11 of this Act; or
 - (f) executing any operations under section 10, 11 or 13 of this Act.]
- and may execute any of the said purposes.

- (2) ^{F15}

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- (3) No person shall be entitled to enter any premises by virtue of subsection (1) of this section for the purposes specified in paragraph (c) [F16(e) or (f) thereof] unless he has given three days' notice of his intention to do so to the occupier, and (unless the owner is unknown) also to the owner, of the premises.
- (4) If a justice of the peace (not being a justice of the peace who is a member of . . . F17 the local authority) on sworn information in writing—
- (a) is satisfied that there are reasonable grounds for entering into any premises for any such purpose as is mentioned in subsection (1) . . . F17 of this section, and
 - (b) is also satisfied either—
 - (i) that admission to the premises has been refused, or a refusal is apprehended and that notice of the intention to apply for a warrant has been given to the occupier, or
 - (ii) that an application for admission, or the giving of such notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier temporarily absent,
- the justice of the peace may, notwithstanding anything in subsection (3) of this section, by warrant under his hand authorise the [F16local authority] by any authorised officer, to enter the premises, if need be by force.
- (5) A person entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectively secured against unauthorised entry as he found them.
- (6) Every warrant granted under this section shall continue in force for a period of one month.
- (7) A person who wilfully obstructs any person acting in the execution of any of the purposes mentioned in subsection (1) . . . F17 of this section shall be guilty of an offence against this Act.
- (8) If any person who, by virtue of the provisions of this section, or of a warrant issued thereunder, enters a factory or work-place, discloses to any other person any information obtained by him in the factory or work-place with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be guilty of an offence against this Act.
- (9) In this section any reference to premises includes a reference to sites and buildings, and any reference to a justice of the peace includes a reference to the sheriff.
- (10) The [F18local authority] or any person authorised by [F18them] may require—
- (a) any person who has made an application for a direction under section four of this Act, or for a warrant, in respect of a building, or
 - (b) any person by whom, or on whose behalf, a building is being or has been constructed in pursuance of a warrant,
- to cause to be carried out such reasonable test of materials forming part of the building, or used or proposed to be used in the construction of the building, as may be specified in the requirement; and the expense of carrying out any test to be carried out under this subsection shall be met by the person so required:
- [F19Provided that the local authority, on application made to them, may if they think fit meet the expense of carrying out any such test as aforesaid or any part of that expense.]

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Textual Amendments

- F13** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 12(a)(i)(ii)**
- F14** [S. 18\(1\)\(e\)\(f\)](#) substituted for [s. 18\(1\)\(e\)](#) by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 12(a)(iii)**
- F15** [Ss. 1, 2\(1\)–\(3\), 6\(8\)\(a\)\(9\)\(b\), 9\(7\)\(8\), 18\(2\), 21, 27, 29\(6\)\(7\)\(9\)](#), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F16** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [s. 134\(2\)](#), **Sch. 15 para. 12(c)(d)**
- F17** Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**
- F18** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 12(f)**
- F19** Proviso substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 15 para. 12(f)**

19 Penalties.

- (1) Any person guilty of an offence under subsection (7) of section eighteen or subsection (3) of section twenty-five of this Act shall be liable on summary conviction to a fine not exceeding [^{F20}level 3 on the standard scale]
- (2) Any person guilty of an offence against this Act, except as specified in the foregoing subsection, shall be liable on summary conviction to a fine not exceeding [^{F20}level 5 on the standard scale]; and, in the case of a continuing offence, to a further fine not exceeding [^{F21}£50] for every day during which the offence is continued.

Textual Amendments

- F20** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **ss. 289F, 289G**
- F21** Words “£50” substituted by [Health and Safety at Work etc. Act 1974 \(c. 37\)](#), **Sch. 7 para. 7**

PROSPECTIVE

^{F22}19A Civil liability.

Textual Amendments

- F22** [Act](#) repealed (1.5.2005) by [Building \(Scotland\) Act 2003 \(asp 8\)](#), [s. 59\(1\)](#), **Sch. 6 para. 1** (with [s. 53](#)); [S.S.I. 2004/404](#), [art. 2\(1\)](#) (with [art. 4](#))

^{F23}20 Fees chargeable by local authorities.

- (1) A local authority may in respect of the performance of their functions under this Act charge such fees as may be prescribed; but there may also be prescribed cases or classes of case for which, or circumstances or classes of circumstances where, no fee shall be chargeable.
- (2) Where a fee is chargeable by virtue of subsection (1) above, the regulations under which it is so chargeable may make different provision (which, without prejudice to

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the generality of this subsection, may include provision for remission of the fee in whole or in part) for—

- (a) different cases or classes of case;
- (b) different circumstances or classes of circumstances;
- (c) different items or classes of business,

(difference being determined by reference to any factor or factors whatsoever).]

Textual Amendments

F23 S. 20 substituted by [Housing \(Scotland\) Act 1986 \(c. 65, SIF 61\)](#), s. 19(6)

21^{F24}

Textual Amendments

F24 Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

22 Information.

Every [^{F25}local authority] shall make to the Secretary of State such reports and returns, and give him such information with respect to their functions, as the Secretary of State may require.

Textual Amendments

F25 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 1](#)

23 Inquiries.

(1)^{F26} the Secretary of State may, for the purposes of any of his functions under this Act, direct the holding of such public inquiries as he may think fit.

[^{F27}(2) Subsections (2) to (8) of section 210 of the [Local Government \(Scotland\) Act 1973](#) shall apply to any inquiry held under this section as they apply to the inquiries specified in the said section 210.]

Textual Amendments

F26 Words repealed by [Building \(Scotland\) Act 1970 \(c. 38\)](#), [Sch. 2](#)

F27 S. 23(2) substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 15 para. 15](#)

24 Regulations.

(1) Without prejudice to any power conferred by any other provision of this Act to make regulations the Secretary of State may make regulations prescribing—

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- (a) the form of any notice or other document which is required or authorised to be used under or for the purposes of this Act, and
 - (b) any other thing which by this Act is required or authorised to be prescribed.
- (2) The forms prescribed under the foregoing subsection, or forms as near thereto as circumstances admit, shall be used in all cases in which those forms are applicable.
 - (3) Any power conferred by any provision of this Act, including this section, to make regulations shall be exercisable by statutory instrument, and the statutory instrument by which any such power is exercised shall be subject to annulment in pursuance of a resolution of either House of Parliament.

25 Service of notices, etc.

- (1) The provisions of section [F28]192 of the M2Local Government (Scotland) Act 1973] (which relates to the service of certain notices, orders and other documents) shall apply to the service of any notice, order or other document required by any provision of this Act, or of any regulations made under this Act, to be served as they apply to the service of the notices, orders and other documents referred to in that section.
- (2) F29 a local authority may, for the purpose of enabling them to serve any notice which they are by this Act authorised or required to serve, require the occupier of any premises and any person who, either directly or indirectly, receives rent in respect of any premises to state in writing the nature of his own interest therein and the name and address of any other person known to him as having an interest therein.
- (3) If any person, having been required by . . . F29 a local authority in pursuance of the last foregoing subsection to give to them any information, fails to give that information, or makes in respect thereof any statement which he knows to be false or misleading in a material particular, or recklessly makes in respect thereof any statement which is false or misleading in a material particular, he shall be guilty of an offence against this Act.

Textual Amendments

F28 Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 15, para. 16\(a\)](#)

F29 Words repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), Sch. 29](#)

Modifications etc. (not altering text)

C2 [S. 25\(2\)\(3\)](#) extended by [Mines and Quarries \(Tips\) Act 1969 \(c. 10\), s. 34\(3\)](#)

Marginal Citations

M2 [1973 c. 65.](#)

26 Crown rights.

- (1) Nothing in this Act shall affect prejudicially any estate, right, power, privilege or exemption of the Crown and [F30subject to the provisions of this section] nothing in this Act, or in any regulations or order made, or notice given, under this Act, shall affect any Crown building:
Provided that—

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- (a) in relation to a Crown building, subsection (1) of section six of this Act shall apply—
 - (i) to the conduct of any operations such as are mentioned in that subsection, and
 - (ii) to any change of use,
which is not effected by, or on behalf of, the Crown Estate Commissioners or a government department, or approved for the purposes of this section by the appropriate authority;
 - (b) in relation to a Crown building, the appropriate authority may direct that such provisions of section ten, section eleven and Part III of this Act as may be specified in the direction shall apply to the building as if it were not a Crown building, and may revoke any such direction;
 - (c) nothing in this section shall affect the operation of the building operations regulations in relation to operations carried out in connection with a Crown building otherwise than by servants of the Crown acting under the direction of the appropriate authority or another government department.
- (2) Except with the consent of the appropriate authority nothing in this Act, or in any regulations made, or warrant granted, under this Act, shall authorise the entry of any person into a Crown building or on to land occupied with a Crown building.
- [^{F31}(2A) The building standards regulations shall, except in so far as they otherwise prescribe, apply to a Crown building as they would apply if the building were not a Crown building.
- (2B) A Crown building to which the building standards regulations apply shall be constructed in accordance with those regulations.
- (2C) Any extension to or alteration of a Crown building to which the building standards regulations apply or would apply on the extension or alteration of the building shall not cause the building as extended or altered, as a direct result of the extension or, as the case may be, the alteration—
 - (a) if it conformed to the building standards regulations immediately before the date of commencement of the operations, to fail to conform to them; or
 - (b) if it failed to conform to the building standards regulations immediately before that date, to fail to conform to them to a greater degree than that to which it failed to conform immediately before that date;and any change of use of a Crown building shall not cause the building after the change of use to fail to conform to so much of the building standards regulations as will become applicable, or will apply more onerously, to the building by reason of the change of use.
- (2D) Section 19A of this Act shall apply to a Crown building as it applies to a building other than a Crown building, but as if for subsection (2) there were substituted the following subsection:—
“(2) A breach to which this section applies is a failure to comply with subsection (2B) or (2C) of section 26 of this Act or a contravention of any provision of the building operations regulations”
- (2E) Without prejudice to any case to which proviso (a) to subsection (1) above is applicable, the Secretary of State shall have the like powers of dispensing with or relaxing the provisions of the building standards regulations in relation to a Crown

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building as he has under section 4(1) of this Act in relation to a building other than a Crown building; and subsections (3), (4), (5), (5A) and (9) of the said section 4 shall apply for the purposes of this section as if—

- (a) in subsection (4), the words “or, as the case may be, the [F32]local authority” were omitted;
- (b) in subsection (5A), for the words from “an application” to the end there were substituted the words “the construction or change of use of a building, part or all of which is of the class to which the direction relates, was begun”;
- (c) in subsection (9), the words “or section 4A(3) of this Act” were omitted.

(2F) Without prejudice to any case to which the said proviso is applicable, in the application of section 4B of this Act to a Crown building, subsection (10) shall have effect as if for the words from “an application” to the end there were substituted the words “the construction of a building, part or all of which is of the type to which the certificate relates, was begun.]

(3) In this section the expression “Crown building” means a building an interest in which belongs to Her Majesty in right of the Crown or to a government department, or is held in trust for Her Majesty for the purposes of a government department, or of which the [F33]Secretary of State] is guardian under the M3 Ancient Monuments Consolidation and Amendment Act, 1913; and, in relation to a Crown building, the expression “appropriate authority” means—

- (a) in the case of a building an interest in which belongs to Her Majesty in right of the Crown, the Crown Estate Commissioners or any government department having the management of that building;
- (b) in the case of a building an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department;
- (c) in the case of a building of which the [F33]Secretary of State] is guardian as aforesaid, that [F33]Secretary of State;]

and, if any question arises as to the authority which is the appropriate authority in relation to any building, the question shall be determined by the Treasury.

Textual Amendments

- F30** Words inserted (prosp.) by Health and Safety at Work etc. Act 1974 (c. 37), **Sch. 7 para. 9(a)**
- F31** S. 26(2A)-(2F) added (prosp.) by Health and Safety at Work etc. Act 1974 (c. 37), s. 85(2), **Sch. 7 para. 9(b)**
- F32** Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 1**
- F33** Words substituted by virtue of S.I. 1962/1549 and 1970/1681

Modifications etc. (not altering text)

- C3** S. 26 modified (6.5.1999) by S.I. 1999/677, **art. 4**

Marginal Citations

- M3** 1913 c. 32.

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Textual Amendments

F34 Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), [Sch. 29](#)

28 Financial provisions.

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State in consequence of this Act, and
- (b) any increase attributable to this Act in sums payable out of moneys so provided under any other enactment.

29 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively—

“building” means any structure or erection of what kind or nature soever, whether temporary or permanent, and every part thereof including any fixture affixed thereto, not being a structure or erection or part thereof consisting of, or ancillary to,—

- (a) any road, whether public or private, including in the case of a public road (but not in the case of a private road) any bridge on which the road is carried;
- (b) any sewer or water main which is, or is to be, vested in a public authority;
- (c) any aerodrome runway;
- (d) any railway line;
- (e) any large reservoir within the meaning of the ^{M4}Reservoirs (Safety Provisions) Act, 1930; or
- (f) any telegraphic line as defined in section two of the ^{M5}Telegraph Act, 1878;

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“building operations regulations” has the meaning assigned to it by section five of this Act;

“Building Standards Advisory Committee” has the meaning assigned to it by section twelve of this Act;

“building standards regulations” has the meaning assigned to it by section three [^{F36}as read with section 4(9)] of this Act;

F35

“certificate of completion” has the meaning assigned to it by section nine of this Act;

“change of use” in relation to a building means such change in the use or occupation of the building as will bring it within a class of building to which the building standards regulations apply, or, if it is already within such a class, within a class to which additional or more onerous provisions of the building standards regulations apply, and “change the use” shall be construed accordingly;

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 1959 (repealed), Part IV. (See end of Document for details)

“construct” includes alter, erect, extend and fit, and “construction” shall be construed accordingly;

“contravene” in relation to a provision, includes fail to comply with the provision;

[^{F37}“enactment” includes an order, regulation or other instrument having effect by virtue of an Act;]

“government department” includes a Minister of the Crown;

F35

“local Act” includes a decret-arbital, provisional order or other instrument ratified or confirmed by a Parliament of Scotland or of the United Kingdom;

[^{F38}“local authority” means the council of an islands area or district, except that in the case of a district situated within the Highland, Borders or Dumfries and Galloway region it means the council of that region;]

F35

“operations” includes operations carried out in relation to the enclosure and preparation of the site of a building;

“prescribed” means prescribed by the Secretary of State by regulations made under this Act;

[^{F39} “road” has the same meaning as in section 151(1) of the Roads (Scotland) Act 1984 except that it also includes any drain or ditch at the side of a road;]

“warrant” (except in subsections (4), (5), (6) and (8) of section eighteen and subsection (2) of section twenty-six of this Act) means a warrant under section six of this Act, including (in the case of a warrant which has been granted) any conditions to which it is subject, and any amendment which has been made to it.

- (2) Any reference in this Act to a building shall, unless the context otherwise requires, be construed as including a reference to a prospective building; and, in relation to the extension, alteration or change of use of a building, the expression “building” shall in this Act, unless the context otherwise requires, be construed as a reference only to so much of the building as is comprised in the extension or is the subject of the alteration or change of use, as the case may be.
- (3) Any reference in this Act to the owner of any land or buildings shall, unless the context otherwise requires, be construed as including a reference to any person who, under the Lands Clauses Acts, would be enabled to sell and convey the land or buildings to the promoters of an undertaking.
- (4) Any reference in this Act to a public road shall be construed as a reference to a road maintainable by the Secretary of State, [^{F40}or a local [^{F41}roads] authority]; and any reference to a private road shall be construed as a reference to a road not so maintainable, whether it comprises a public right of way or not.
- (5) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended, applied or extended by or under any other enactment including this Act.
- (6) F42
- (7) F42

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Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 1959 (repealed), Part IV. (See end of Document for details)

- (8) Any building which extends into the areas of . . . ^{F43} two or more local authorities, shall be treated for the purposes of this Act as being wholly within the area of . . . ^{F43}, such one of those local authorities, as may from time to time be agreed by the authorities concerned, or, in default of agreement, determined by the Secretary of State.
- (9) ^{F42}

Textual Amendments

- F35** Definitions repealed by Local Government (Scotland) Act 1973 (c. 65), Sch. 15 para. 18(a), **Sch. 29**
- F36** Words inserted by Building (Scotland) Act 1970 (c. 38), **Sch. 1 Pt. I para. 7(a)**
- F37** Definition added by Building (Scotland) Act 1970 (c. 38), **Sch. 1 Pt. I para. 7(b)**
- F38** Definition substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 18(a)**
- F39** Definition substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 51(a)**
- F40** Words substituted by Local Government (Scotland) Act 1973 (c. 65), **Sch. 15 para. 18(b)**
- F41** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 51(b)**
- F42** Ss. 1, 2(1)—(3), 6(8)(a)(9)(b), 9(7)(8), 18(2), 21, 27, 29(6)(7)(9), Schs. 1, 2, 8, 9 paras. 2, 3 repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**
- F43** Words repealed by Local Government (Scotland) Act 1973 (c. 65), **Sch. 29**

Marginal Citations

- M4** 1930 c. 51.
- M5** 1878 c. 78.

30 Local Act provisions.

- (1) Subject to the next following subsection, where any local Act contains any provision providing for any matter which is also provided for by any provision of this Act, or of any regulations having effect by virtue of this Act, the provision of this Act, or, as the case may be, of those regulations, shall have effect in substitution for the provision of the local Act, and the provision of the local Act shall cease to have effect:

. ^{F44}

- (2) The Secretary of State may by order made by statutory instrument except from the operation of the foregoing subsection such provisions of any local Act as may be specified in the order (being provisions to which apart from the order that subsection would apply) and direct that the corresponding provisions of this Act or of any regulations having effect by virtue of this Act (which provisions shall be specified in the order) shall not have effect in the areas in which the specified provisions of the local Act have effect:

Provided that no order under this subsection shall be made in relation to a provision (being a provision of a local Act) which has ceased to have effect.

- (3) If it appears to the Secretary of State that any provision of any local Act, not being a provision which has ceased to have effect by virtue of subsection (1) of this section, is inconsistent with any provision of this Act or is no longer required, or requires to be amended, having regard to any provision of this Act, he may by order repeal or amend the provision of the local Act as he may consider appropriate.

- (4) The power of making orders conferred by the last foregoing subsection shall be exercisable by statutory instrument and any order made under that subsection shall be subject to special parliamentary procedure.

Status: Point in time view as at 01/02/1991. This version of this part contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Building (Scotland) Act 1959 (repealed), Part IV. (See end of Document for details)

Textual Amendments

F44 Proviso repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), **Sch. 29**

31 Minor and consequential amendments and repeals.

(1) The enactments specified in the Ninth Schedule to this Act shall have effect subject to the amendments, being amendments consequential on the provisions of this Act or of a minor nature, specified in relation thereto in that Schedule.

(2) **F45**

Textual Amendments

F45 [S. 31\(2\)](#), [Sch. 10](#) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. XI**

Modifications etc. (not altering text)

C4 The text of s. 31(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

32 Short title, extent and commencement.

(1) This Act may be cited as the Building (Scotland) Act 1959.

(2) This Act shall extend to Scotland only.

(3) This Act, except sections three, five, twelve, twenty-three, twenty-four and twenty-eight and subsections (2) to (4) of section thirty thereof, and paragraph 5 of the First Schedule thereto, shall come into operation on such day as the Secretary of State may by order, made by statutory instrument, appoint, and those provisions shall come into operation on the passing of this Act; and for the purposes of this Act and of the application thereto of section thirty-seven of the ^{M6}Interpretation Act, 1889 (which relates to the exercise of statutory powers between the passing and the commencement of an Act) references to the commencement of this Act shall, notwithstanding the provisions of section thirty-six of the said Act of 1889 with respect to the construction of the expression “commencement”, be construed as references to the time at which this Act, except the provisions of this Act specified in this section, comes into operation.

Modifications etc. (not altering text)

C5 15.6.1964 appointed under s. 32(3) by [S.I. 1963/1896](#)

Marginal Citations

M6 [1889 c. 63](#).

Status:

Point in time view as at 01/02/1991. This version of this part contains provisions that are prospective.

Changes to legislation:

There are currently no known outstanding effects for the Building (Scotland) Act 1959 (repealed), Part IV.