



# Building (Scotland) Act 1959

## 1959 CHAPTER 24

### PART IV

#### SUPPLEMENTARY

#### 16 Appeals

- (1) Any person aggrieved by—
- (a) any decision of a buildings 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 buildings 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 buildings authority refusing to issue a certificate of completion, (d) any order made by a buildings authority under subsection (1) 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 buildings 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 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 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) The power of the Court of Session to make acts of sederunt under subsection (2) of this section shall be exercisable by statutory instrument, and the Statutory Instruments Act, 1946, shall apply to a statutory instrument containing an act of sederunt so made by the Court in like manner as if the act of sederunt had been made by a Minister of the Crown.