



Building (Scotland) Act 1959

1959 CHAPTER 24

PART IV

SUPPLEMENTARY

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—
 - (a) a building in respect of which a notice under subsection (1) of section six of the Ancient Monuments Act, 1931, has been served, or is deemed under subsection (4) of that section to have been served, and which has not ceased to be included in any such list as is mentioned in the said subsection (1),
 - (b) subject to a building preservation order under section twenty-seven of the Town and Country Planning (Scotland) Act, 1947,
 - (c) included in a list of buildings of special architectural or historic interest, being a list compiled or approved under section twenty-eight of the said Act of 1947, or
 - (d) subject to an interim preservation notice under section ten, or a preservation order under section eleven, of the Historic Buildings and Ancient Monuments Act, 1953,

the requirement shall have effect only in so far as it is not inconsistent with any provision of the said Act of 1931, the said Act of 1947 or, as the case may be, the said Act of 1953 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.

Status: This is the original version (as it was originally enacted).

- (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.
- (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.