



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 5

#### LICENSING OF HOUSES IN MULTIPLE OCCUPATION

##### *Local authority decisions: notice and appeals*

#### **159 Part 5 appeals**

- (1) Any decision of a local authority to which section 158 applies may be appealed by summary application to the sheriff.
- (2) An appeal may be made only by a person on whom notice of the decision requires to be served under that section.
- (3) An appeal is not competent unless the person making it has followed every procedure made available under this Part for stating a case to the local authority in relation to the decision being appealed that it would be reasonable to have expected the person to follow.
- (4) An appeal must be made within 28 days of the person receiving notice of the decision.
- (5) But the sheriff may on cause shown hear an appeal made after the deadline set by subsection (4).
- [<sup>F1</sup>(5A) For the purposes of an appeal, the sheriff may require the local authority to give reasons for the decision (if the authority has not already done so), and the authority must comply with such a requirement.]
- (6) The sheriff may determine the appeal by—
  - (a) confirming the decision (and any HMO licence or order granted or varied, or requirement made, in consequence of it) with or without variations,
  - (b) remitting the decision, together with the sheriff's reasons for doing so, to the local authority for reconsideration, or
  - (c) quashing the decision (and any HMO licence or order granted, or variation or requirement made, in consequence of it).

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*Changes to legislation: There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Section 159. (See end of Document for details)*

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- (7) The sheriff may not determine the appeal in a manner described in subsection (6)(b) where the decision appealed against is a decision to serve an HMO amenity notice.
- (8) On remitting a decision the sheriff may—
- (a) set a date by which the local authority must, after reconsidering the decision, confirm, vary, reverse or revoke it,
  - (b) modify any procedural steps which would otherwise be required by or under any enactment (including this Act) in relation to the reconsideration.
- (9) A determination by the sheriff may be appealed to the sheriff principal within 28 days of the sheriff's determination.
- (10) The sheriff principal's decision on any such appeal is final.
- (11) The sheriff may make such order about the expenses of an appeal under subsection (1) as the sheriff thinks fit (and the sheriff principal may make such an order in relation to any subsequent appeal).
- (12) References in the other provisions of this Part to the date on which an appeal to the sheriff is finally determined are to be read as references—
- (a) where the appeal is determined by the sheriff under subsection (6)(a) or (c)—
    - (i) to the last date on which the determination may be appealed to the sheriff principal under subsection (9), or
    - (ii) where such an appeal is made, to the date on which that appeal is abandoned or determined by the sheriff principal, or
  - (b) where the appeal is determined by the sheriff under subsection (6)(b), to the date of the determination.
- (13) Subsection (12)(b) does not affect any entitlement to appeal to the sheriff principal under subsection (9) against a determination by the sheriff under subsection (6)(b).
- (14) A reference in this Part to the last date on which a decision may be appealed under this section to the sheriff is, where that date is in any case changed under subsection (5), to be read as referring to the new date only if the change is made before the date on which the right to appeal would otherwise expire.

#### **Textual Amendments**

**F1** S. 159(5A) inserted (31.8.2011) by [Private Rented Housing \(Scotland\) Act 2011 \(asp 14\)](#), **ss. 15(2)**, 41(3); S.S.I. 2011/270, art. 2, Sch.

#### **Modifications etc. (not altering text)**

**C1** S. 159(1) power to disapply conferred (20.11.2014) by [Housing \(Scotland\) Act 2014 \(asp 14\)](#), **ss. 20(2)(a)(ii)**, 104(3); S.S.I. 2014/264, art. 2, Sch.

#### **Commencement Information**

**I1** S. 159 in force at 31.8.2011 by [S.S.I. 2010/159](#), **art. 3**

**Changes to legislation:**

There are currently no known outstanding effects for the Housing (Scotland) Act 2006, Section 159.