

# Defective and Dangerous Buildings (Recovery of Expenses) (Scotland) Bill

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## Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 3

Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 1

#### Derek Mackay

- 22 In section 1, page 1, line 14 after <section> insert <25(7)(b), 26(3)(b), 27(7)(b),>

#### Derek Mackay

- 1 In section 1, page 2, leave out lines 1 to 6 and insert—  
<( ) A charging order, and a discharge of a charging order, are to be in the form prescribed under section 36.>

#### Derek Mackay

- 23 In section 1, page 2, line 9, after <section> insert <25(7)(b), 26(3)(b), 27(7)(b),>

#### Derek Mackay

- 24 In section 1, page 2, line 9, at end insert—  
<( ) a building regulations compliance notice under section 25(3) served after the commencement of this section,  
( ) a continuing requirement enforcement notice under section 26(2) served after such commencement,  
( ) a building warrant enforcement notice under section 27(2) served after such commencement,>

#### Derek Mackay

- 2 In section 1, page 2, line 12, leave out <the commencement of this section and section 46A(1)> and insert <such commencement>

#### Derek Mackay

- 3 In section 1, page 2, line 14, leave out <subsection> and insert <section>

**Derek Mackay**

- 4 In section 1, page 2, line 17, leave out <sections 46A, 46C, 46D, and 46E and Schedule 5A> and insert <section 46A and sections 46C to 46G>

**David Stewart**

- 5 In section 1, page 2, line 33, at end insert—
- <(3) The local authority must determine—
    - (a) the number of annual instalments, being no fewer than 5 and no more than 30, in which the repayable amount is to be paid, and
    - (b) the date in each year on which the instalment becomes due.>

**Derek Mackay**

- 25 In section 1, page 2, line 33, at end insert—
- <(4) Subsection (5) applies where qualifying expenses are recoverable under subsection (7)(b) of section 27 from a relevant person (as defined in subsection (3) of that section), other than the owner, in relation to a building.
  - (5) The reference in subsection (2) to the owner of the building concerned is to be read as a reference to the relevant person (as so defined) in relation to the building.>

**David Stewart**

- 6 In section 1, page 2, leave out lines 36 and 37 and insert—
- <(a) that the repayable amount is payable in the number of annual instalments and on the date in each year determined under section 46C(3),>

**David Stewart**

- 7 In section 1, page 3, line 1, leave out <thirtieth> and insert <final>

**Derek Mackay**

- 8 In section 1, page 3, line 7, leave out from <or> to end of line 10

**Derek Mackay**

- 9 In section 1, page 3, leave out lines 15 to 17

**Derek Mackay**

- 26 In section 1, page 3, line 17, at end insert—
- <(5) Subsection (6) applies where a charging order relates to qualifying expenses that are recoverable under subsection (7)(b) of section 27 from a relevant person (as defined in subsection (3) of that section), other than the owner, in relation to a building.

- (6) The references in subsection (2) to the owner of any building subject to a charging order are to be read as references to the relevant person (as so defined) in relation to the building.>

**Derek Mackay**

- 10 In section 1, page 3, line 21, leave out from beginning to <been> on line 22 and insert <On the registration of a charging order, the charge specified in the order is>

**Derek Mackay**

- 11 In section 1, page 3, line 24, leave out <any person deriving title to> and insert <the owner of>

**Derek Mackay**

- 12 In section 1, page 3, line 26, leave out <a third party> and insert <any person>

**Derek Mackay**

- 13 In section 1, page 3, line 29, leave out <third party> and insert <a person>

**Derek Mackay**

- 14 In section 1, page 3, line 33 leave out from beginning to <been> on line 34 and insert <On the registration of the discharge of a charging order, the charge specified in the order is>

**David Stewart**

- 15 In section 1, page 3, line 34, at end insert—

**<46F Liability of new owner for repayable amount**

- (1) Subsection (2) applies where—
- (a) a charging order is registered in respect of a building, and
  - (b) the order was registered at least 14 days before the date on which a person (the “new owner”) acquires right to the building.
- (2) The new owner is severally liable with any former owner of the building for the repayable amount for which the former owner is liable.

**46G Continuing liability of former owner**

- (1) An owner of a building who is liable for the repayable amount does not, by virtue only of ceasing to be such an owner, cease to be liable for the repayable amount.
- (2) Where, in relation to a building, a new owner (within the meaning of section 46F(1)(b)) pays the repayable amount, or any part of it, for which a former owner of the building is liable, the new owner may recover the amount, or the part of it, so paid from the former owner.
- (3) A person who is entitled to recover an amount under subsection (2) does not, by virtue only of ceasing to be the owner of the building, cease to be entitled to recover that amount.>

**Derek Mackay**

16 In section 1, page 3, line 34, at end insert—

**<46H “Register” and “appropriate land register”**

- (1) In sections 46C to 46F, “register” in relation to a charging order or a discharge of a charging order, means register the information contained in the order or discharge in the Land Register of Scotland or, as appropriate, record the order or discharge in question in the Register of Sasines; and “registered” and other related expressions are to be read accordingly.
- (2) In section 46E, “appropriate land register” means the Land Register of Scotland or the Register of Sasines.>

**Derek Mackay**

17 In section 1, page 3, line 36, leave out <at the end of subsection (1)> and insert <in subsection (1), after paragraph (g)>

**Derek Mackay**

18 In section 1, page 4, leave out lines 9 to 11

**Derek Mackay**

19 In section 1, page 4, line 12, leave out from beginning to end of line 8 on page 5

**After section 1**

**Derek Mackay**

20 After section 1, insert—

**<Ancillary provision**

- (1) The Scottish Ministers may by order make such supplementary, incidental, consequential, transitional or transitory provision or savings as they consider appropriate for the purposes of, in consequence of, or for giving full effect to any provision of this Act.
- (2) An order under this section may modify this or any other enactment.
- (3) An order under this section containing provision which adds to, replaces or omits any part of the text of an Act is subject to the affirmative procedure.
- (4) Otherwise, an order under this section is subject to the negative procedure.>

**Section 2**

**Derek Mackay**

21 In section 2, page 5, line 10, leave out from beginning to <46D(4),>

### **Section 3**

**Derek Mackay**

- 27 In section 3, page 5, line 15, leave out <Defective and Dangerous>

### **Long Title**

**Derek Mackay**

- 28 In the long title, page 1, line 2, leave out <the repair, securing or demolition of defective or dangerous buildings> and insert <connection with notices served or work carried out under that Act>



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