

2014 No. 369

BUILDING AND BUILDINGS

**The Building (Scotland) Act 2003 (Charging Orders)
Regulations 2014**

Made - - - - - *16th December 2014*

Laid before the Scottish Parliament *18th December 2014*

Coming into force - - - *7th February 2015*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 33(1)(b)(ii) and 36(1) of the Building (Scotland) Act 2003(a) and all other powers enabling them to do so.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Building (Scotland) Act 2003 (Charging Orders) Regulations 2014 and come into force on 7th February 2015.

(2) In these Regulations “the Act” means the Building (Scotland) Act 2003.

Notification of making of a charging order

2.—(1) Subject to paragraph (2), on making a charging order under section 46A of the Act(b), the local authority must—

- (a) serve a copy of the charging order on the owner of the building concerned;
- (b) advise the owner of the effect of the charging order; and
- (c) notify the owner of—
 - (i) the right of appeal under section 47(3) of the Act against the charging order; and
 - (ii) the time limit within which such an appeal may be made.

(2) Where a charging order relates to qualifying expenses (as defined in section 46B of the Act) that are recoverable under section 27(7)(b) of the Act from a relevant person (as defined in section 27(3) of the Act), other than the owner, the references in paragraph (1) to the owner of the building are to be read as references to the relevant person (as so defined) in relation to the building.

Form of charging order

3. A charging order is to be in the form set out in Schedule 1.

(a) 2003 asp 8.

(b) Sections 46A to 46H were inserted by section 1 of the Buildings (Recovery of Expenses) (Scotland) Act 2014 (asp 13).

Form of discharge of charging order

4. A discharge of a charging order is to be in the form set out in Schedule 2.

St Andrew's House,
Edinburgh
16th December 2014

MARCO BIAGI
Authorised to sign by the Scottish Ministers

SCHEDULE 1

Regulation 3

Form of Charging Order

“ THE BUILDING (SCOTLAND) ACT 2003
CHARGING ORDER

We ¹....., in exercise of the power conferred by section 46A of the Building (Scotland) Act 2003, CHARGE the building described in the schedule with the repayable amount of ²..... sterling, payable in ³..... annual instalments of ⁴....., the first instalment being payable on ⁵.....in 20..... and subsequent instalments on the same date in every succeeding calendar year.

In the event of default of payment of an annual instalment, the instalment together with any amount recoverable in respect of that instalment under section 46C(2)(a) or (b) of the Building (Scotland) Act 2003 is separately recoverable as a debt.

If immediately after the final instalment falls due any balance of the repayable amount remains unpaid, that balance is immediately due for repayment and is recoverable as a debt.

Signed

Date

SCHEDULE
DESCRIPTION OF BUILDING⁶

Notes for guidance

¹ Insert the name and address of the local authority.

² Insert in words the repayment amount.

³ Insert in words the number of annual instalments, being no fewer than 5 and no more than 30.

⁴ Insert the amount of the annual instalment.

⁵ Insert a date after the making of the charge for the first instalment to be paid.

⁶ Insert a full description of the subjects by reference to the postal address and, as appropriate, either

(a) a competent conveyancing description to enable recording in the General Register of Sasines, or

(b) the registered title number to enable registration in the Land Register.

”

SCHEDULE 2

Regulation 4

Form of Discharge of Charging Order

“

THE BUILDING (SCOTLAND) ACT 2003

DISCHARGE OF CHARGING ORDER

We ¹....., DISCHARGE the
Charging Order made by us on ²..... over ³..... and
[either] ⁴ registered in the Land Register under Title Number ⁵..... on
⁶..... [or] ⁴ recorded in the Division of the General Register of Sasines
for the County of ⁷..... on ⁸.....

Signed

Date

Notes for guidance

¹ Insert the name and address of the local authority.

² Insert the date on which the original Charging Order was made.

³ Insert postal address of the building.

⁴ Delete as appropriate.

⁵ Insert Title Number in Land Register.

⁶ Insert date of registration of Charging Order.

⁷ Insert name of County in the General Register of Sasines.

⁸ Insert date of recording of Charging Order in the General Register of Sasines.

”

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision in respect of charging orders made by local authorities under section 46A of the Building (Scotland) Act 2003. Regulation 2 requires notification of the making of the charging order and of the right of appeal.

The Schedules to these Regulations set out the form of a charging order and the form of a discharge of a charging order.

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Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland.

£4.25

S2014121711 12/2014 19585

<http://www.legislation.gov.uk/id/ssi/2014/369>

ISBN 978-0-11-102564-2



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