

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 3

Public Health Investigations

Investigators' powers

Section 22 Powers relating to entry to premises

42. This section sets out the powers an investigator may exercise to enter premises when it is considered necessary for the purpose of a public health investigation. The use of the power of entry in relation to a dwellinghouse is subject to section 26. This section allows an investigator, on entering any premises which that investigator has reason to believe it is necessary to enter, to take any other person (including a constable, if there is reasonable cause to expect any serious obstruction in obtaining access); it allows an investigator to take any equipment or materials which might be necessary for the investigation; and to direct that any premises or anything in them be left undisturbed for as long as the investigator considers appropriate. Subsection (2) places an obligation on an investigator who uses these powers to enter unoccupied premises to leave the premises as effectively secured against unauthorised entry as the investigator found them.
43. The powers contained in this section and the rest of Part 3 sit alongside existing powers of investigation in other legislation, and are not intended to supersede these (see section 25(5)). In particular it is not intended that these powers will be used to investigate incidents arising at nuclear sites, as provision in that area falls outwith the legislative competence of the Scottish Parliament, and existing legislation adequately provides for investigations into such incidents.