

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 3

Public Health Investigations

Investigators' powers

Section 27 18Public health investigation warrants

52. This section sets out the circumstances in which a sheriff or a justice of the peace may grant a warrant for the purposes of a public health investigation. Subsection (1) lists the circumstances which must exist before a warrant may be applied for and granted: that the investigator has been refused entry to premises or expects to be refused; that the premises are unoccupied; that the occupier is temporarily absent and there is urgency; that an investigator has been prevented from exercising a power (other than the power of entry) or expects to be prevented; or that an application for admission to the premises would defeat the object of the investigation.
53. Subsection (2) states that the sheriff or justice of the peace may authorise the investigator to exercise the power in relation to those premises according to the warrant and to take any other person (including a constable if serious obstruction is expected) as well as any equipment or material required for the purpose for which the power of entry is being exercised. The power of entry under the warrant may be exercised at any time and includes power to use reasonable force to obtain entry. The investigator may also direct that the premises be left undisturbed and may also exercise any other power mentioned in sections 23 to 25.
54. Subsection (3) specifies that a sheriff or justice of the peace must not issue a warrant authorising entry to a dwellinghouse unless the condition requiring 48 hours' notice has been satisfied and the period of notice has expired. A warrant under this section continues in force until the purpose for which the warrant is issued is fulfilled.