



Public Health etc. (Scotland) Act 2008

2008 asp 5

PART 3

PUBLIC HEALTH INVESTIGATIONS

Investigators' powers

28 Use of powers in emergencies

- (1) This section applies where an investigator who is entitled to enter premises by virtue of the power conferred by section 22 considers, on reasonable grounds, that there is an emergency.
- (2) The power of entry which the investigator has—
 - (a) may be exercised at any time; and
 - (b) includes power to use reasonable force.
- (3) Where the premises in relation to which the investigator proposes to exercise the power are a dwellinghouse, section 26 does not apply.
- (4) The investigator may, on entering premises by virtue of this section—
 - (a) take—
 - (i) any other person authorised by the investigator and, if the investigator has reasonable cause to expect any serious obstruction in obtaining access, a constable; and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (b) direct that—
 - (i) those premises (or any part of them) are; or
 - (ii) any thing in or on them is,to be left undisturbed (whether generally or in particular respects) for so long as the investigator considers appropriate;
 - (c) exercise any power mentioned in sections 23 to 25.
- (5) Where the investigator enters premises by virtue of this section, section 22(2) applies.

Changes to legislation: Public Health etc. (Scotland) Act 2008, Section 28 is up to date with all changes known to be in force on or before 30 January 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) In this section, there is an “emergency” if—
- (a) there is a significant risk to public health; and
 - (b) the nature of that risk is such that immediate action is necessary—
 - (i) to verify the existence of the risk;
 - (ii) to ascertain the cause of the risk; or
 - (iii) to take action to prevent, or prevent the spread of, infectious disease or contamination.

Annotations:

Commencement Information

II S. 28 in force at 1.10.2009 by S.S.I. 2009/319, art. 2(a), **Sch. 1**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 92(1)(b)(i)(ii) inserted by [2016 asp 20 Sch. 1 para. 2\(a\)](#)