

REVENUE SCOTLAND AND TAX POWERS ACT 2014

EXPLANATORY NOTES

THE ACT

Part 7 – Investigatory Powers of Revenue Scotland

Chapter 4 — Investigatory Powers: Premises and Other Property

Inspection of business premises

Section 141 – Power to inspect business premises

183. This section provides that a designated officer can enter a business premises and inspect the premises (including buildings, structures, land and transport), assets and documents if the officer has reason to believe that the inspection is reasonably required to check a person's tax position. The designated officer would not be able to enter or inspect any part of those premises that was used solely as a dwelling. A person who deliberately obstructs a designated officer (or a person authorised by the officer) in the course of an inspection under this section, and which has been approved by the tribunal, is liable to a penalty under section 195.

Section 142 – Powers to inspect business premises of involved third parties

184. This section provides that a designated officer can enter a business premises of an involved third party and inspect the premises, assets and documents where it is reasonable to do so to check a position in regard to a devolved tax, whether the person's identity was known or not. The designated officer would not be able to enter or inspect any part of those premises that was used solely as a dwelling. A person who deliberately obstructs a designated officer (or a person authorised by the officer) in the course of an inspection under this section, and which has been approved by the tribunal, is liable to a penalty under section 195.

Section 143 – Carrying out inspections under section 141 or 142

185. This section sets out conditions for inspections on business premises as provided for under sections 141 and 142. Subsections (1) and (2) provide that such inspections may only be carried out at a time agreed with the occupier of the premises or at any reasonable time if either: a) the occupier of the premises is given at least seven days' notice in writing of the time of the inspection; or b) the designated officer has reasonable grounds for believing that giving advance notice of the inspection is likely to seriously inhibit or prejudice the collection of tax (for example, the officer had concerns that the person was likely to try and destroy or remove important evidence in advance of an inspection).
186. Subsection (3) provides that where subsection (2)(b) applies (i.e. no advance notice of the inspection is given), a written notice must be provided to the occupier or someone

else who appears to be in charge of the premises at the time. If no one is present at the time, the notice must be left in a prominent place on the premises. Subsection (4) provides that a notice given in advance of an inspection (under subsection (2)(a)) or at the time of an inspection (under subsection (3)) must state the possible consequences of obstructing the designated officer from exercising the power to carry out the inspection. If such a notice has been given with the approval of the tribunal, it must state this (in order that the occupier is aware that if they deliberately obstruct the designated officer in the course of carrying out the inspection then they are liable to the penalty under section 167).

Section 144 – Carrying out inspections under section 141 or 142: further provision

187. This section provides further powers, in subsections (2) to (5), available to a designated officer carrying out an inspection of business premises under section 141 or 142. These include: taking any other person(s) with them onto the premises (including a constable where there is serious obstruction); taking any equipment or materials required for the purpose of the inspection (for example heavy machinery); examining or investigating anything considered necessary in the circumstances of the inspection; directing that the premises (or any part of the premises) be left undisturbed for as long as is reasonably necessary for the purposes of any examination or investigation.
188. The power to take equipment or machinery can be exercised either at a time agreed with the occupier or at any other reasonable time. The power can only be exercised at any reasonable time either: a) where a notice was issued under section 143(2)(a) informing the occupier in advance that the officer intended to exercise the power; or b) where it is deemed by the officer that there are reasonable grounds for believing that giving advance notice that the power will be exercised would seriously prejudice the assessment or collection of tax.