

# REVENUE SCOTLAND AND TAX POWERS ACT 2014

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## 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.

#### **Inspection for valuation etc.**

#### ***Section 145 – Power to inspect property for valuation etc. and section 146 – Carrying out of inspections under section 145***

189. These sections provide that a designated officer may enter and inspect premises for the purpose of valuing the premises if it is reasonably required to check a person's tax position. Section 146 sets out the conditions under which such an inspection can be carried out. 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 of the Act.

#### **Approval of tribunal for premises inspections**

#### ***Section 147 – Approval of tribunal for premises inspections***

190. This section provides that a designated officer may ask the tribunal to approve an inspection under sections 141, 142 or 145 or to approve the exercise of any of the powers in section 144 in relation to an inspection under section 141 or 142. The tribunal must be satisfied the inspection or exercise of powers is justified. The conditions outlined in subsection (4) apply to approving inspections under section 145. The application to the tribunal can be made without notice, and any decision of the tribunal is final.

#### **Other powers in relation to premises**

#### ***Section 148 – Power to mark assets and to record information***

191. This section provides that while inspecting premises, assets or documents (for valuation and/or for checking a tax position), assets can be marked to show that they have been inspected and relevant information can be obtained and recorded.

## **Restriction on inspection of documents**

### ***Section 149 – Restriction on inspection of documents***

192. This section sets out that a designated officer may not inspect a document during an inspection if an information notice given at the time of the inspection could not require the occupier to produce the document (for example, if the document is legally privileged).