



Natural Heritage (Scotland) Act 1991

1991 CHAPTER 28

PART IV

GENERAL

24 Rights of entry and inspection under Parts II and III

(1) Any person duly authorised in writing by a river purification authority, a water authority or a water development board may at any reasonable time enter upon any land for the purpose of—

- (a) exercising any power or performing any duty conferred or imposed on the authority or board or that person by virtue of Part II or III of this Act;
- (b) determining whether circumstances exist which require the exercise of such a power or performance of such a duty and, if so, in what manner such power or duty should be exercised or performed;
- (c) determining whether any provision of either of these Parts of this Act or of an instrument made by virtue of one of these Parts is being complied with; or
- (d) carrying out such inspections, measurements and tests on the land or of any articles, including water, on it and taking away such samples of the land or such articles as he considers appropriate for such inspections, measurements or tests.

(2) Subject to subsection (3) below, if the sheriff is satisfied that there is a reasonable ground for entry upon any land which a person is entitled to enter in pursuance of subsection (1) above and—

- (a) that admission to that land has been refused;
- (b) that such refusal is apprehended;
- (c) that entry upon the land was sought in an emergency;
- (d) that the land is unoccupied or the occupier is temporarily absent; or
- (e) that an application for admission to the land would defeat the object of the entry,

then the sheriff may grant a warrant authorising that person to enter the land, if necessary using such force as is reasonable in all the circumstances.

Status: This is the original version (as it was originally enacted).

- (3) Without prejudice to subsection (6) below, in any case to which paragraph (a) or (b) of subsection (2) above applies the sheriff shall not grant a warrant unless he is satisfied that a notice of the intended entry has been served on the occupier of the land not less than seven days before the demand for entry was made.
- (4) A warrant issued in pursuance of this section shall continue in force until the purpose for which the entry is required has been satisfied.
- (5) A person authorised to enter upon any land in pursuance of this section—
- (a) shall, if so required, produce evidence of his authority before he enters upon the land; and
 - (b) may take with him on to the land such other persons and such equipment as may be necessary.
- (6) Admission to any land used for residential purposes and admission with heavy equipment to any other land shall not, except—
- (a) in an emergency;
 - (b) in a case where land is unoccupied; or
 - (c) in a case where to serve notice of intended entry would defeat the object of the entry,
- be demanded as of right in pursuance of subsection (1) above unless a notice of intended entry has been served on the occupier not less than seven days before the demand is made.
- (7) A person who, in the exercise of the powers conferred on him by virtue of this section, enters upon any land which is unoccupied or from which the occupier is temporarily absent shall leave the land as effectively secured against unauthorised entry as he found it.
- (8) A person who wilfully obstructs any person acting in the exercise of his powers under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (9) It shall be the duty of a river purification authority, water authority or water development board to compensate any person who has sustained loss or damage by reason of—
- (a) the exercise by a person authorised by the authority or board of any powers conferred on him by virtue of this section; or
 - (b) the failure of a person so authorised to perform the duty imposed on him by subsection (7) above; or
 - (c) the occupation and use of land authorised by a drought order by virtue of paragraph 5 of Schedule 7 to this Act,
- except where the loss or damage is attributable to the fault of the person who sustained it; and any dispute as to a person's entitlement to compensation in pursuance of this subsection or as to the amount of the compensation shall be determined by arbitration.
- (10) Any reference in this section to an emergency is a reference to a case where a person requiring entry upon land has reasonable cause to believe that—
- (a) there is a reduction in the volume, or a deterioration in the quality, of water such as would be likely to endanger human life or health or adversely affect the viability of aquatic flora or fauna; and

- (b) immediate entry is necessary to verify the existence of these circumstances or to ascertain their cause or to effect a remedy.

(11) In this section “land” includes a vessel.