



Fire and Rescue Services Act 2004

2004 CHAPTER 21

PART 6

SUPPLEMENTARY

Powers of entry

46 Supplementary powers

- (1) If an authorised officer exercises a power of entry under section 45(1)(a), he may—
- (a) take with him any other persons, and any equipment, that he considers necessary;
 - (b) require any person present on the premises to provide him with any facilities, information, documents or records, or other assistance, that he may reasonably request.
- (2) If an authorised officer exercises a power of entry under section 45(1)(b) he may—
- (a) take with him any other persons, and any equipment, that he considers necessary;
 - (b) inspect and copy any documents or records on the premises or remove them from the premises;
 - (c) carry out any inspections, measurements and tests in relation to the premises, or to an article or substance found on the premises, that he considers necessary;
 - (d) take samples of an article or substance found on the premises, but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the investigation;
 - (e) dismantle an article found on the premises, but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the investigation;
 - (f) take possession of an article or substance found on the premises and detain it for as long as is necessary for any of these purposes—
 - (i) to examine it and do anything he has power to do under paragraph (c) or (e);

Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Section 46. (See end of Document for details)

- (ii) to ensure that it is not tampered with before his examination of it is completed;
 - (iii) to ensure that it is available for use as evidence in proceedings for an offence relevant to the investigation;
 - (g) require a person present on the premises to provide him with any facilities, information, documents or records, or other assistance, that he may reasonably request.
- (3) If an authorised officer exercises the power in subsection (2)(d) he must—
- (a) leave a notice at the premises (either with a responsible person or if that is impracticable fixed in a prominent position) giving particulars of the article or substance and stating that he has taken a sample of it, and
 - (b) if it is practicable to do so, give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (4) If an authorised officer exercises the power in subsection (2)(f) he must leave a notice at the premises (either with a responsible person or if that is impracticable fixed in a prominent position) giving particulars of the article or substance and stating that he has taken possession of it.
- (5) If in the exercise of any power under section 45 or this section an authorised officer enters premises which are unoccupied, or from which the occupier is temporarily absent, he must on his departure leave the premises as effectively secured against unauthorised entry as he found them.
- (6) A person commits an offence if without reasonable excuse—
- (a) he obstructs the exercise of any power under section 45 or this section, or
 - (b) he fails to comply with any requirement under subsection (1)(b) or (2)(g).
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Modifications etc. (not altering text)

- C1** S. 46 applied (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\)](#), arts. 1(2), **17(3)**
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Commencement Information

- I1** S. 46 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304](#), **art. 2** (with **art. 3**)
- I2** S. 46 in force at 10.11.2004 for W. by [S.I. 2004/2917](#), **art. 2**

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