



# Tax Collection and Management (Wales) Act 2016

2016 anaw 6

## PART 4

### INVESTIGATORY POWERS OF WRA

#### CHAPTER 4

##### INSPECTIONS OF PREMISES AND OTHER PROPERTY

#### **103 Power to inspect business premises**

- (1) If WRA has grounds for believing that the inspection of a person's business premises is required for the purpose of checking the person's tax position, WRA may enter the premises and inspect—
  - (a) the premises;
  - (b) business assets that are on the premises;
  - (c) business documents that are on the premises (but see section 110).
- (2) But WRA may carry out such an inspection only with—
  - (a) the agreement of the occupier of the premises, or
  - (b) the approval of the tribunal.
- (3) An inspection may be carried out—
  - (a) at a time agreed to by the occupier of the premises, or
  - (b) if the inspection has been approved by the tribunal—
    - (i) at a reasonable time specified in a notice issued to the occupier at least 7 days before that time, or
    - (ii) at any reasonable time if the tribunal, when approving the inspection, is satisfied that WRA has grounds for believing that notifying the

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occupier would seriously prejudice the assessment or collection of devolved tax.

- (4) If WRA seeks to carry out an inspection without—
- (a) the agreement of the occupier, or
  - (b) issuing a notice under subsection (3)(b)(i),
- WRA must provide a notice at the time the inspection is to begin.
- (5) A notice provided under subsection (4) must—
- (a) if the occupier of the premises is present, be provided to the occupier;
  - (b) if the occupier is not present but there is a person present who appears to WRA to be in charge of the premises, be provided to that person;
  - (c) in any other case, be left in a prominent place on the premises.
- (6) A notice issued under subsection (3)(b)(i), or provided under subsection (4), must state—
- (a) that the inspection has been approved by the tribunal, and
  - (b) the possible consequences of obstructing a person exercising WRA's functions.
- (7) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

#### **104 Carrying out inspections under section 103: further provision**

- (1) When carrying out an inspection under section 103, WRA has the following powers.
- (2) On entering the business premises, WRA may—
- (a) if it has grounds for believing that the carrying out of the inspection may be seriously obstructed, be accompanied by a constable, and
  - (b) be accompanied by a person authorised by WRA.
- (3) WRA may make such examination or investigation as it considers to be necessary in the circumstances.
- (4) WRA may direct that the premises or any part of them, or anything in them, be left undisturbed (either generally or in particular respects) for so long as is necessary for the purposes of any such examination or investigation.
- (5) WRA, or a person accompanying WRA, may take samples of material from the premises.
- (6) The power to take samples includes power—
- (a) to carry out experimental borings or other works on the premises, and
  - (b) to install, keep or maintain monitoring and other apparatus on the premises.
- (7) Any sample taken under subsection (5) is to be disposed of in such manner as WRA may determine.

#### **105 Carrying out inspections under section 103: use of equipment and materials**

- (1) WRA, or a person accompanying WRA, may take any equipment or materials required for the purpose of an inspection under section 103 onto the business premises being inspected.

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- (2) WRA, or a person accompanying WRA, may take equipment or materials onto the premises—
  - (a) at a time agreed to by the occupier of the premises, or
  - (b) at any reasonable time, if either—
    - (i) a notice was issued under section 103(3)(b)(i) and the notice specified that the equipment or materials were to be taken onto the premises, or
    - (ii) WRA has grounds for believing that issuing such a notice would seriously prejudice the assessment or collection of devolved tax.
- (3) If equipment or materials are taken onto premises without—
  - (a) the agreement of the occupier, or
  - (b) a notice having been issued in accordance with subsection (2)(b)(i),WRA must provide a notice at the time the equipment or materials are to be taken onto the premises.
- (4) The notice must—
  - (a) if the occupier of the premises is present, be provided to the occupier;
  - (b) if the occupier is not present but there is a person present who appears to WRA to be in charge of the premises, be provided to that person;
  - (c) in any other case, be left in a prominent place on the premises.
- (5) The notice must state the possible consequences of obstructing a person exercising WRA's functions.
- (6) If the inspection, or the use of equipment or materials, has been approved by the tribunal, the notice must state that fact.

## **106 Power to inspect premises or property for valuation etc.**

- (1) WRA may enter premises and inspect the premises and any property on the premises for the purpose of valuing, measuring or determining the character of the premises or property if—
  - (a) the valuation, measurement or determination is required for the purposes of checking any person's tax position, and
  - (b) either condition 1 or 2 is met.
- (2) Condition 1 is that—
  - (a) the inspection is carried out at a time agreed to by a relevant person, and
  - (b) a notice of the agreed time of the inspection has been issued to the relevant person.
- (3) Condition 2 is that—
  - (a) the inspection has been approved by the tribunal, and
  - (b) a notice of the time of the inspection has been issued to a relevant person specified by the tribunal at least 7 days before that time.
- (4) In this section, "relevant person" means—
  - (a) the occupier of the premises, or
  - (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.

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- (5) A notice under subsection (2)(b) or (3)(b) must state possible consequences of obstructing a person exercising WRA's functions.
- (6) A notice under subsection (3)(b) must also state that the inspection has been approved by the tribunal.
- (7) If WRA considers it necessary to assist with the inspection, WRA may be accompanied by a person authorised by WRA.

### **107 Producing authorisation to carry out inspections**

If a person carrying out an inspection under section 103 or 106 is unable to produce evidence of authority to carry out the inspection when asked to do so by—

- (a) the occupier of the premises, or
  - (b) any other person who appears to be in charge of, or to control, the premises,
- the inspection must stop and may not be continued until such evidence is produced.

### **108 Approval of tribunal for inspection of premises**

- (1) WRA may ask the tribunal to approve—
  - (a) an inspection under section 103 or 106, or
  - (b) the exercise of powers under section 104 or 105 in relation to an inspection under section 103 which has been agreed to by the occupier of the premises.
- (2) The tribunal's approval of an inspection under section 103 includes approval of the exercise of the powers under section 104 or 105 subject to any conditions imposed by the tribunal in approving the inspection.
- (3) An application for approval may be made under subsection (1) without notice of the application being sent to—
  - (a) the person whose tax position is the subject of the proposed inspection, or
  - (b) the occupier of the premises.
- (4) The tribunal may approve an inspection under section 103 only if—
  - (a) it is satisfied that WRA has grounds for believing that the inspection of the business premises is required for the purpose of checking a person's tax position, and
  - (b) if the application for approval was made without notice, it is satisfied that sending notice of the application might have prejudiced the assessment or collection of devolved tax.
- (5) The tribunal may approve an inspection under section 106 only if it is satisfied that the inspection is required for the purposes of checking any person's tax position and—
  - (a) if the application for approval was made without notice, it is satisfied that sending notice of the application might have prejudiced the assessment or collection of devolved tax, or
  - (b) in any other case—
    - (i) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to WRA about the inspection,
    - (ii) the occupier of the premises has been given a reasonable opportunity to make such representations, and

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- (iii) the tribunal has been provided with a summary of any representations made.
- (6) Subsection (5)(b)(ii) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.
- (7) Where the tribunal has approved an inspection under subsection (1)(a) or the exercise of a power under subsection (1)(b), WRA must carry out the inspection or exercise the power—
  - (a) no later than 3 months after the day on which the tribunal’s approval was given, or
  - (b) within such shorter period as the tribunal may specify when giving the approval.

#### **109 Power to mark assets and to record information**

The powers under sections 103 to 106 include—

- (a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and
- (b) power to obtain and record information (whether electronically or otherwise) relating to the premises, property, assets and documents that have been inspected.

#### **110 Restriction on inspection of documents**

WRA may not inspect a document under this Chapter if (or to the extent that), by virtue of Chapters 2 and 3, an information notice issued at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.

#### **111 Interpretation of Chapter 4**

In this Chapter—

“business assets” (“*asedau busnes*”) means assets that WRA has reason to believe are owned, leased or used in connection with the carrying on of a business by any person, but does not include documents;

“business documents” (“*dogfennau busnes*”) means documents (or copies of documents) that relate to the carrying on of a business by any person;

“business premises” (“*mangre busnes*”), in relation to a person, means premises (or any part of premises) that WRA has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person;

“premises” (“*mangre*”) includes any building or structure, any land and any means of transport.