

# **BUILDING (SCOTLAND) ACT 2003**

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## **EXPLANATORY NOTES**

### **SCHEDULES**

#### ***Schedule 4 (introduced by section 39): Powers of entry, inspection and testing: further provision***

150. The schedule makes further provision about the rights of entry, inspection and testing conferred on the Scottish Ministers and local authorities by section 39(1) and (3). *Paragraph 1* provides that entry may be demanded only at a reasonable time, and after 3 days' notice, unless the case is one of urgency.
151. *Paragraph 2* makes provision in relation to the granting by a sheriff or justice of the peace to Ministers or a local authority of a warrant for the exercise of powers of entry, inspection and testing. To grant a warrant a sheriff or justice of the peace must be satisfied not only that there are reasonable grounds for entry etc. but also that at least one of the conditions in *paragraph 2(2)* is satisfied. Those conditions include refusal or expected refusal of entry, the premises being unoccupied or the owner absent, urgency and the case where applying for admission to the premises would defeat the object of the entry.
152. Where entry to premises has been refused or a refusal is expected, notice of the intention to apply for a warrant for entry must be given to the occupier of the premises unless the sheriff or justice is satisfied that giving such notice would defeat the object of the entry (*paragraph 2(3)*).
153. *Paragraph 2(4)* sets the period for which a warrant continues in force.
154. *Paragraph 3* provides that anyone exercising a power of entry, inspection etc. must provide written evidence of the right to exercise that power if asked to do so.
155. *Paragraph 4* provides for any person exercising a power of entry, inspection etc. to take other people or equipment onto the premises as necessary, subject to the conditions of a warrant where one has been granted. An example might be where a person exercising a power of inspection takes a carpenter in order to lift the floorboards.
156. *Paragraph 5* provides that any person exercising a power of entry, inspection etc. must leave the premises as effectively secured as they were before the power of entry, inspection etc. was exercised.
157. *Paragraph 6* creates an offence where a person who enters a premises under section 39(1) or (3) makes use of or discloses information obtained by that person on those premises with regard to any manufacturing process or trade secret.