

HOUSING (SCOTLAND) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON PARTS

Part 9 – Rights of Entry

203. **Section 181** sets out powers of entry. Any person authorised by the local authority may enter premises in connection with decisions relating to the designation of a Housing Renewal Area; determining whether to serve a work or demolition notice or whether the requirements under an existing notice have been complied with; carrying out work or demolition that the local authority is required or authorised to do; maintenance orders and plans; and HMO licences and requirements associated with them and with HMO amenity notices. A member of a Private Rented Housing Committee or person authorised by them is entitled to enter a house in respect of which an application has been referred to the Committee. The owner of any house may, at any reasonable time, enter the house to do any work required by a work notice, demolition notice or maintenance plan. This is particularly important where the owner lets out the house. A landlord has a right of entry to view the condition of the house and carry out work to meet the repairing standard.
204. **Section 182** outlines circumstances where a sheriff or justice of the peace may issue a warrant to allow a person authorised by a local authority, or Private Rented Housing Committee, to enter a house, by force if necessary, for the purposes described in **section 181**. A warrant can only be issued where the sheriff or justice is satisfied that the entry is reasonable and that entry has been refused, or is expected to be refused; the land or house is empty; the owner is temporarily absent; the matter is urgent; or that asking for access to the house would have defeated the purpose of gaining entry. Except in the last two of these cases, the sheriff must also be satisfied that the local authority has served on the owner a notice that it intends to apply for a warrant.
205. **Section 183** provides a right of entry for constables to enter land or premises where there is a reasonable belief certain offences are being committed, to seek evidence of those offences. There is also an ability to apply for a warrant from a sheriff or justice of the peace in these circumstances.
206. **Section 184** contains additional details of the rights of entry. The right of entry allows access to adjacent land or premises. Along with the right of entry goes the entitlement to survey and examine and do anything else necessary for the purpose for which entry is authorised. Where a person exercises the rights of entry, they are entitled to bring other persons or equipment as necessary. Access should be at reasonable times and in most situations at least 24 hours notice given. The land or premises must be left secure and compensation is due if any damage has occurred as a result of the entry or failure to secure the premises. Disputed compensation will be settled by arbitration.