



# Housing (Scotland) Act 2006

## 2006 asp 1

### PART 9

#### RIGHTS OF ENTRY

#### **181 Rights of entry: general**

- (1) Any person authorised by a local authority is entitled to enter—
- (a) any land or premises for the purposes of enabling or assisting the local authority to decide whether any part of its area should be designated as an HRA,
  - (b) any premises for the purposes of enabling or assisting the local authority to decide whether—
    - (i) to serve a work notice or demolition notice,
    - (ii) any such notice has been complied with, or
    - (iii) to grant a certificate under section 60 in relation to work required by a work notice,
  - (c) any premises which the local authority is required or authorised by Part 1 to carry out work in or to demolish, for the purposes of doing so,
  - (d) any premises for the purposes of enabling the local authority to—
    - (i) decide whether to make a maintenance order,
    - (ii) consider or devise a maintenance plan,
    - (iii) decide whether a maintenance plan has been implemented, or
    - (iv) do anything which the local authority is authorised by section 48(2) or 49(1) to do,
  - (e) any living accommodation for the purposes of enabling or assisting the local authority to decide whether—
    - (i) the living accommodation is an HMO which requires to be licensed under Part 5,
    - (ii) to grant, vary or revoke an HMO licence in relation to the living accommodation,
    - (iii) a condition included in an HMO licence has been breached,
    - (iv) any person has failed to comply with a requirement made by a temporary exemption order,

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- (v) any person has failed to comply with a requirement made under section 145(2),
  - (vi) to serve an HMO amenity notice,
  - (vii) an HMO amenity notice has been complied with,
  - (viii) to grant a certificate under paragraph 7 of schedule 5 in relation to work required by an HMO amenity notice.
- (2) A member of a private rented housing committee, and any person authorised by any such member, is entitled to enter any house in respect of which a tenant's application under section 22(1) has been referred to the committee for the purposes of enabling or assisting the committee to—
- (a) determine the application under section 24(1),
  - (b) decide whether the landlord has complied with, or is likely to comply with, any repairing standard enforcement order made by the committee in pursuance of that application, or
  - (c) decide whether to grant a certificate under section 60 in relation to the work required by any such order.
- (3) The owner of any premises, or any person authorised by the owner, is entitled to enter the premises for the purposes of—
- (a) carrying out work required by a work notice or an HMO amenity notice,
  - (b) carrying out a demolition required by a demolition notice, or
  - (c) implementing a maintenance plan.
- (4) A landlord in a tenancy to which Chapter 4 of Part 1 applies, or any person authorised by the landlord, is entitled to enter the house concerned for the purpose of—
- (a) viewing its state and condition for the purpose of determining whether the house meets the repairing standard, or
  - (b) carrying out any work necessary to comply with the duty in section 14(1)(b) or a repairing standard enforcement order.
- (5) An authorisation under subsection (1) to (4) must state the particular purpose or purposes for which the entry is authorised.
- (6) Any person who inspects a house in exercise of a right conferred by subsection (2) must provide the committee with a report of that inspection.

## **182 Warrants authorising entry**

- (1) A sheriff or a justice of the peace may by warrant authorise any person entitled to exercise a right conferred by subsection (1) or (2) of section 181 to do so, if necessary using reasonable force, in accordance with the warrant.
- (2) A warrant may be granted under subsection (1) only if the sheriff or justice is satisfied, by evidence on oath—
- (a) that there are reasonable grounds for the exercise of the right in relation to the land or premises concerned, and
  - (b) that—
    - (i) the exercise of the right in relation to the land or premises has been refused,
    - (ii) such a refusal is reasonably expected,
    - (iii) the land is, or premises are, unoccupied,

- (iv) the occupier is temporarily absent,
  - (v) the case is one of urgency, or
  - (vi) that an application for admission would defeat the object of the proposed entry.
- (3) A sheriff or justice may not be satisfied that a condition specified in any of heads (ii) to (iv) of subsection (2)(b) is met unless the sheriff or justice is also satisfied that notice of intention to apply for a warrant has been given to the occupier of the land or premises concerned.

### **183 Rights of entry: constables**

- (1) A constable who suspects with reasonable cause that any person is committing or has committed an offence under section 28, 39 or 154 may, at any reasonable time, enter any land or premises for the purpose of obtaining evidence of the offence.
- (2) A sheriff or a justice of the peace may by warrant authorise a constable authorised to exercise the power conferred by subsection (1) to do so, if necessary using reasonable force, in accordance with the warrant.
- (3) A warrant may be granted under subsection (2) only if the sheriff or justice is satisfied, by evidence on oath, that there are reasonable grounds for suspecting that an offence under section 28, 39 or, as the case may be, 154 is being or has been committed in relation to the land or premises concerned.

### **184 Rights of entry: supplemental**

- (1) A right to enter any land or premises conferred by or under this Part includes a right to enter for the same purpose—
- (a) in the case of land, any land adjacent to it, and
  - (b) in the case of any part of any premises, any land adjacent to that part and any other part of those premises.
- (2) Any person who enters any land or premises in exercise of a right conferred by or under this Part is entitled to—
- (a) survey and examine the land or premises, and
  - (b) do anything else which is reasonably required in order to fulfil the purpose for which entry is taken.
- (3) A right to enter any land or premises conferred by or under this Part may be exercised only at a reasonable time.
- (4) The occupants of the land or premises concerned must be given at least 24 hours' notice before any person exercises any such right in relation to it unless—
- (a) the situation is urgent, or
  - (b) the person entitled to exercise the power considers that giving such notice would defeat the object of the proposed entry.
- (5) A person authorised to exercise any right conferred by or under this Part must, if required to do so, produce written evidence of that authorisation.
- (6) Subsection (5) does not apply to a constable in uniform seeking to exercise a right without warrant.

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- (7) A right conferred by this section applies despite any term to the contrary in any tenancy, occupancy arrangement or other agreement.
- (8) Any person who enters any land or premises in exercise of a right conferred by or under this Part—
- (a) is entitled, subject in the case of a right exercisable under a warrant to the terms of the warrant, to take on to the land or into the premises—
    - (i) such other persons, and
    - (ii) such equipment,as may be reasonably required for the purposes of assisting that person,
  - (b) must leave the land or premises as effectually secured against unauthorised entry as that person found it, and
  - (c) must compensate any other person who has sustained damage as a result of—
    - (i) the exercise of the right or power, or
    - (ii) any failure to comply with paragraph (b),unless the damage is attributable to the fault of the person who sustained it.
- (9) Any question of disputed compensation under subsection (8)(c) is to be determined by arbitration; and, where there is no agreement as to who is to be appointed as arbiter, as to the procedure to be followed at the arbitration or as to the defraying of related expenses, the Scottish Ministers must appoint an arbiter, specify the procedure or, as the case may be, determine liability for expenses.
- (10) A warrant granted under section 182 or 183 continues in force until the purpose for which the warrant was issued has been fulfilled or, if earlier, the expiry of such period as the warrant may specify.
- (11) Any person who, without reasonable excuse, prevents or obstructs any other person from doing anything which is authorised by a warrant granted under section 182 or 183 is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.