

PUBLIC HEALTH ETC. (SCOTLAND) ACT 2008

EXPLANATORY NOTES

THE ACT – OVERVIEW

Part 5

Public Health Functions of Local Authorities

Disinfection etc. of premises and things

Section 78 Warrant to enter and take steps

157. This section provides that a local authority may apply for a warrant from a sheriff or a justice of the peace to enter and take steps where an authorised officer has been refused entry or can reasonably anticipate such refusal; the premises to which the authorised person is entitled to enter are unoccupied; the occupier of the premises is temporarily absent and there is urgency; or a person entitled to enter the premises has been prevented from taking the authorised steps, or reasonably anticipates such prevention.
158. Subsection (2) allows a sheriff or justice of the peace to authorise an officer of the authority to enter the premises, to take any other person authorised by the officer and a constable, if the officer has reasonable cause to expect any serious obstruction in obtaining access; to direct that the premises (or any part of them) are, or any thing in or on them is, to be left undisturbed for so long as the officer considers appropriate; and to take any steps mentioned in section 73.
159. Subsection (3) states that a warrant in relation to a dwellinghouse must not be granted unless the sheriff or justice is satisfied that 48 hours' notice has been given and that period has expired. Subsection (4) provides that the power of entry may be exercised at any time and includes power to use reasonable force.
160. Subsection (5) provides that an authorised officer who enters any unoccupied premises by virtue of this section must leave the premises as effectively secured against unauthorised entry as the officer found them. A warrant under this section continues in force until the purpose for which it is issued is fulfilled.