

FLOOD RISK MANAGEMENT (SCOTLAND) ACT

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 6 – Powers of Entry and Compensation

Section 80 – Warrants authorising entry

222. This section enables a sheriff or justice of the peace to grant a warrant to any person entitled to exercise a power of entry under section 79 to do so. A warrant allows the person authorised to use reasonable force but does not allow the use of force against individuals (see subsections (1) and (4)(a)).
223. Subsections (2) and (3) set out the circumstances in which a warrant may be granted. These require the sheriff or justice of the peace to be satisfied by evidence on oath that there are reasonable grounds for seeking entry to the land, that permission to enter has been refused or a refusal is reasonably expected, the land is unoccupied, or where the case is urgent. Where the case is not urgent and a warrant is sought on the basis that permission to enter has been refused or a refusal is expected then the applicant (either SEPA or the local authority) must first have given notice that they intend to enter the land and the notice period must have expired. The notice periods are set out in section 81(3).
224. Subsection (5) makes it an offence to prevent or obstruct a person from exercising a power of entry under a warrant unless the person obstructing or preventing access has a reasonable excuse for doing so. The standard scale is set out in section 225 of the Criminal Procedure (Scotland) Act 1995. Level 3 is currently £1,000.