



2016 CHAPTER 22

PART 5

Supplementary

Powers of entry

Powers of entry: without warrant

78.—(1) This section applies where a council considers that a survey or examination of any living accommodation is reasonably required for the purpose of enabling or assisting the council to decide—

- (a) whether the living accommodation is an HMO,
- (b) whether to grant, vary or revoke an HMO licence in relation to the living accommodation, or
- (c) whether or how any other function under this Act should be exercised in relation to the living accommodation.

(2) A person authorised in writing by the council may, at any reasonable time, enter the living accommodation for the purpose of carrying out the survey or examination.

(3) Before entering the accommodation, the person must give at least 24 hours' notice of the intention to do so to—

- (a) the owner of the accommodation (if known), and
- (b) the occupiers of the accommodation (if any).

(4) The person may not use force in the exercise of the power conferred by this section.

(5) The person must produce for inspection the written authorisation mentioned in subsection (2), if requested to do so by the owner or occupier or any person acting on their behalf.

Powers of entry: with warrant

79.—(1) A lay magistrate may issue a warrant under this section authorising a person named in the warrant to enter and search premises which are specified in the warrant.

(2) A magistrate may issue such a warrant only if satisfied, on a complaint made in writing and substantiated on oath, that the first and second conditions are met.

(3) The first condition is that an officer of the council, or a person acting on behalf of the council, reasonably requires to enter or search the premises for the purpose of enabling or assisting the council to decide—

- (a) whether any offence under this Act has been committed in relation to any living accommodation,
- (b) whether any requirement imposed by any notice issued under this Act in relation to any living accommodation is being or has been complied with, or
- (c) any of the matters mentioned in paragraphs (a) to (c) of section 78(1).

(4) The second condition is that—

- (a) applying to the owner or occupiers for entry (whether under section 78 or otherwise) would defeat the purpose of the entry or search,
- (b) the premises are unoccupied,
- (c) the premises are temporarily vacant and it might defeat the purpose of the entry to await the return of the occupiers, or
- (d) entry to the premises has been sought in accordance with section 78 but has been refused.

(5) A warrant under this section must specify the purpose for which the entry and search is required.

(6) A warrant under this section may authorise the use of force.

(7) Entry under a warrant under this section must be at a reasonable hour unless it appears to the person executing it that the purpose of the entry or search may be defeated if the entry is at a reasonable hour.

(8) A person executing a warrant under this section may—

- (a) search for, and inspect, any document or other item;
- (b) take copies of any document;

(c) require any person to provide such information or other assistance as the person executing the warrant requires for the purpose of the entry or search.

(9) A person executing a warrant under this section must produce the warrant for inspection, if requested to do so by the owner or occupier or any person acting on their behalf.

(10) A warrant under this section is valid for the period of one month beginning with the date on which it is issued.

Powers of entry: supplementary provisions

80.—(1) A person entering premises under section 78 or 79 may be accompanied by such other persons as the person considers necessary for the purpose for which the power is being exercised.

(2) If premises are unoccupied or temporarily vacant, a person entering them under section 78 or 79 must leave them as effectively secured against trespassers as the person found them.

(3) Where any property is damaged in the exercise of any power conferred by section 78 or 79, or in the doing of anything for the purposes of which such a power is conferred, the council must compensate the person who sustained the damage, unless the damage is attributable to the fault of that person.

(4) Any question of disputed compensation under this section is to be determined by the Lands Tribunal.

(5) A person commits an offence if the person—

(a) obstructs a relevant person in the performance of anything which, by virtue section 78 or 79, the relevant person is required or authorised to do, and

(b) does not have a reasonable excuse for doing so.

(6) In subsection (5), “relevant person” means a person entering premises under section 78 or 79, or any person accompanying such a person under subsection (1).

(7) A person guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.