
Changes to legislation: Freedom of Information (Scotland) Act 2002, Paragraph 2 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

SCHEDULE 3 POWERS OF ENTRY AND INSPECTION

Modifications etc. (not altering text)

C1 Sch. 3 applied (with modifications) (1.1.2005) by [The Environmental Information \(Scotland\) Regulations 2004 \(S.S.I. 2004/520\)](#), [reg 17\(1\)\(2\)](#) (with [reg. 3](#))

- 2 (1) A sheriff must not grant the warrant unless satisfied—
- (a) that the Commissioner has given seven days' notice in writing to the occupier of the premises demanding access to them; and
 - (b) that either—
 - (i) access was demanded at a reasonable hour and was unreasonably refused; or
 - (ii) although entry to the premises was granted, the occupier unreasonably refused to comply with a request by the Commissioner, or any member of the Commissioner's staff, to permit the Commissioner or any such member of staff to do any of the things referred to in paragraph 1(2); and
 - (c) that the occupier has, after the refusal, been notified by the Commissioner of the application for the warrant and has had an opportunity of being heard by the sheriff on the question of whether or not it should be granted.
- (2) Sub-paragraph (1) does not apply if the sheriff is satisfied that the case is one of urgency or that compliance with the provisions of that sub-paragraph would defeat the object of the entry.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- sch. 1 para. 74A inserted by [2023 asp 6 sch. 2 para. 2\(2\)](#)