



Building (Scotland) Act 2003

2003 asp 8

PART 5

GENERAL

Entry, inspection and tests

39 Powers of entry, inspection and testing

- (1) For the purposes of the exercise of their functions under section 3, the Scottish Ministers may exercise the powers specified in subsection (2).
- (2) Those powers are—
 - (a) power to enter any premises for the purpose of exercising a power specified in paragraph (b) or (c),
 - (b) power to inspect any building, or the site of any building, in respect of which an application has been made under section 3,
 - (c) power to carry out reasonable tests to determine the quality and strength of any material used or proposed to be used in the construction of a building referred to in paragraph (b).
- (3) For the purposes of the exercise of the functions of a local authority under sections 25 to 30, the authority may exercise the powers specified in subsection (4).
- (4) Those powers are—
 - (a) power to enter any premises for the purpose of—
 - (i) exercising a power specified in paragraph (b) or (c),
 - (ii) carrying out work under section 25(7)(b), 26(3)(b), 27(7)(b), 28(10)(b), 29(2) or (3) or 30(4)(b),
 - (b) power to inspect any building, or the site of any building, in connection with the authority's functions under sections 25 to 30,
 - (c) power to carry out reasonable tests to determine the quality and strength of any material used or proposed to be used in the construction of a building which the authority is entitled to inspect under paragraph (b).

Status: This is the original version (as it was originally enacted).

- (5) The owner and occupier of any premises in relation to which the powers specified in subsections (2) and (4) are exercised, and any person on the premises when those powers are being exercised must give the Scottish Ministers or, as the case may be, the local authority such assistance, and provide such information, as they or it may reasonably require.
- (6) A person who—
- (a) refuses or fails, without reasonable excuse, to comply with a requirement made under subsection (5), or
 - (b) intentionally obstructs a person acting in the exercise of any power conferred by subsection (1) or (3),
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) Schedule 4 makes further provision about the exercise of the powers conferred by subsections (1) and (3); and references in this section and that schedule to a power conferred by either of those subsections include references to such a power exercisable by virtue of a warrant under that schedule.
- (8) In this section and that schedule “premises” includes sites and buildings.