

WATER SERVICES ETC. (SCOTLAND) ACT 2005

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2: Licences and Compliance: Further Provision

Paragraph 6: Powers of entry etc.: further provision

264. Sub-paragraph (1) empowers the Commission, or anyone authorised by it, and subject to the terms of any warrant, to be accompanied by others on, and to take equipment on to, the premises so as to be able to conduct monitoring and enforcement activity effectively. Where appropriate, this must be done in a manner consistent with the terms of any warrant granted under paragraph 7. The sub-paragraph also requires anyone exercising a power of entry and if required to do so, to provide written evidence of their authority to do so. Sub-paragraph (2) requires those entering premises to leave them in a condition no less secure than that in which they found them.
265. Sub-paragraphs (3) to (4) provide protection for those whose premises are entered under paragraph 5(2)(a). Sub-paragraph (3) places a duty on the Commission to pay compensation to anyone who suffers damage or loss as a result of the powers of entry being exercised except where such loss or damage is attributable to the fault of the person who sustained it. Sub-paragraph (4) makes it an offence for anyone to disclose any commercially sensitive information obtained as a result of exercising the power of entry. Sub-paragraph (5) provides that anyone obstructing the Commission, or failing without reasonable excuse to provide assistance to the Commission, in the exercise of the powers at this paragraph is guilty of an offence. The penalties for these offences are set out in sub-paragraph (6) and are up to the statutory maximum fine (currently £5,000), where convicted by a Sheriff sitting without a jury, or, where convicted by a jury, an unlimited fine.