



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 5

#### PUBLIC HEALTH FUNCTIONS OF LOCAL AUTHORITIES

##### *Disinfection etc. of premises and things*

#### **78 Warrant to enter and take steps**

- (1) This section applies where—
- (a) a person entitled to enter premises under this Part—
    - (i) has been refused entry; or
    - (ii) reasonably anticipates entry being refused;
  - (b) premises which such a person is entitled to enter are unoccupied;
  - (c) the occupier of such premises is temporarily absent and there is urgency; or
  - (d) a person entitled to enter premises under this Part—
    - (i) has been prevented from taking any step which that person is entitled under this Part to take; or
    - (ii) reasonably anticipates being prevented from doing so.
- (2) The sheriff or a justice of the peace may, on the application of a local authority, by warrant authorise an officer of the authority—
- (a) to enter the premises;
  - (b) on entering premises by virtue of paragraph (a), to take any other person authorised by the officer and, if the officer has reasonable cause to expect any serious obstruction in obtaining access, a constable;
  - (c) to direct that—
    - (i) those premises (or any part of them) are; or
    - (ii) any thing in or on them is,to be left undisturbed (whether generally or in particular respects) for so long as the officer considers appropriate;
  - (d) to take any step mentioned in section 73(2);
  - (e) to remove any thing from the premises for the purpose of taking any such step at any other place.

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*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 78. (See end of Document for details)*

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- (3) The sheriff or justice of the peace must not, under subsection (2), grant a warrant in relation to a dwellinghouse unless the sheriff or justice is satisfied that—
  - (a) notice has been given under section 77(2); and
  - (b) the period of notice has expired
- (4) The power of entry in this section—
  - (a) may be exercised at any time; and
  - (b) includes power to use reasonable force.
- (5) An authorised officer who enters any unoccupied premises by virtue of this section must leave the premises as effectively secured against unauthorised entry as the officer found them.
- (6) A warrant under this section continues in force until the purpose for which it is issued is fulfilled.

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**Commencement Information**

**II** [S. 78](#) in force at 1.10.2009 by [S.S.I. 2009/319](#), art. 2(a), [Sch. 1](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 78.