



# Public Health etc. (Scotland) Act 2008

## 2008 asp 5

### PART 5

#### PUBLIC HEALTH FUNCTIONS OF LOCAL AUTHORITIES

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

#### **79 Use of powers in emergencies**

- (1) This section applies where—
  - (a) a local authority knows or suspects that—
    - (i) any premises in its area are; or
    - (ii) any thing in or on such premises is, infected, infested or contaminated;
  - (b) it appears to the authority that as a result it is necessary, to prevent, or prevent the spread of, infectious disease or contamination, for one or more of the steps mentioned in section 73(2) to be taken; and
  - (c) the authority considers, on reasonable grounds, that there is an emergency.
- (2) An authorised officer may enter the premises—
  - (a) whether or not a notice under section 73(3) or 76(2) has been served;
  - (b) where a notice under section 73(3) has been served, whether or not the period specified in the notice has expired.
- (3) The authorised officer may enter premises by virtue of this section only where a local authority competent person certifies that the person is satisfied as to the matters in subsection (1).
- (4) The power of entry which the officer has—
  - (a) may be exercised at any time; and
  - (b) includes power to use reasonable force.
- (5) Where the premises in relation to which the officer proposes to exercise the power are a dwellinghouse, section 77 does not apply.
- (6) The authorised officer may, on entering premises by virtue of this section—

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*Changes to legislation: There are currently no known outstanding effects for the Public Health etc. (Scotland) Act 2008, Section 79. (See end of Document for details)*

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- (a) 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;
  - (b) 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;
  - (c) take any step mentioned in section 73(2);
  - (d) remove any thing from the premises for the purpose of taking any such step at any other place.
- (7) 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.
- (8) This section applies despite the making of an appeal under section 83(1).
- (9) In this section, there is an “emergency” if—
- (a) there is a significant risk to public health; and
  - (b) the nature of that risk is such that immediate action is necessary to prevent, or prevent the spread of, infectious disease or contamination.

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**Commencement Information**

**II** S. 79 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 79.