

Status: This version of this provision is prospective.

Changes to legislation: Courts and Legal Services Act 1990, Section 107 is up to date with all changes known to be in force on or before 27 May 2023. 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



Courts and Legal Services Act 1990

1990 CHAPTER 41

PART VI

MISCELLANEOUS AND SUPPLEMENTAL

Tying-in

PROSPECTIVE

107 Tying-in: enforcement.

- (1) Every local weights and measures authority ("an authority") and the [F¹FCA] shall have the duty of enforcing sections 104 to 106 and any regulations made under them.
- (2) Nothing in subsection (1) is to be taken as authorising a local weights and measures authority in Scotland to institute proceedings for an offence.
- (3) Where an authority propose to institute proceedings for an offence under section 106 they shall give the [F¹FCA] notice of the intended proceedings together with a summary of the facts on which the charges are to be founded.
- (4) Where an authority are under a duty to give such a notice and summary they shall not institute the proceedings until—
 - (a) the end of the period of 28 days beginning with the date on which they gave the required notice and summary; or
 - (b) if earlier, the date on which the [F¹FCA] notifies them of receipt of the notice and summary.
- (5) Every authority shall, whenever the [F¹FCA] requires, report to [F²it] in such form and with such particulars as [F²it] requires on the exercise of their functions under this section.

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- (6) A duly authorised officer of the [FCA] or of an authority (“an authorised officer”) who has reasonable cause to suspect that an offence may have been committed under section 106 may, at any reasonable time—
- (a) enter any premises which are not used solely as a dwelling;
 - (b) require any officer, agent or other competent person on the premises who is, or may be, in possession of information relevant to an investigation in connection with the provision made by section 104 or 105 to provide such information;
 - (c) require the production of any document which may be relevant to such an investigation;
 - (d) take copies, or extracts, of any such documents;
 - (e) seize and retain any document which he has reason to believe may be required as evidence in proceedings for an offence under section 106.
- (7) Any authorised officer exercising any power given by subsection (6) shall, if asked to do so, produce evidence that he is such an officer.
- (8) A justice of the peace may issue a warrant under this section if satisfied, on information on oath given by an authorised officer, that there is reasonable cause to believe that an offence may have been committed under section 106 and that—
- (a) entry to the premises concerned, or production of any documents which may be relevant to an investigation in connection with the provision made by section 104 or 105, has been or is likely to be refused to the authorised officer; or
 - (b) there is reasonable cause to believe that, if production of any such document were to be required by the authorised officer without a warrant having been issued under this section, the document would not be produced but would be removed from the premises or hidden, tampered with or destroyed.
- (9) In the application of this section to Scotland, “justice of the peace” includes a sheriff and “information on oath” shall be read as “evidence on oath”.
- (10) A warrant issued under this section shall authorise the authorised officer (accompanied, where he considers it appropriate, by a constable or any other person) —
- (a) to enter the premises specified in the information, using such force as is reasonably necessary; and
 - (b) to exercise any of the powers given to the authorised officer by subsection (6).
- (11) If a person—
- (a) intentionally obstructs an authorised officer in the exercise of any power under this section;
 - (b) intentionally fails to comply with any requirement properly imposed on him by an authorised officer in the exercise of any such power;
 - (c) fails, without reasonable excuse, to give to an authorised officer any assistance or information which he may reasonably require of him for the purpose of exercising any such power; or
 - (d) in giving to an authorised officer any information which he has been required to give to an authorised officer exercising any such power, makes any statement which he knows to be false or misleading in a material particular,
- he shall be guilty of an offence.

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- (12) A person guilty of an offence under subsection (11)(a), (b) or (c) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (13) A person guilty of an offence under subsection (11)(d) shall be liable on summary conviction to a fine not exceeding level 4 on the standard scale.
- (14) Nothing in this section shall be taken to require any person to answer any question put to him by an authorised officer, or to give any information to an authorised officer, if to do so might incriminate him.
- (15) In this section “document” includes information recorded in any form.
- (16) In relation to information recorded otherwise than in legible form, references in this section to its production include references to producing a copy of the information in legible form.
- [^{F3}(17) The functions of the FCA under this section are to be treated for the purposes of the Financial Services and Markets Act 2000 as functions conferred on the FCA by or under that Act.]

Textual Amendments

- F1** Word in s. 107 substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 2(3)(a)**
- F2** Words in s. 107(5) substituted (1.4.2003) by 2002 c. 40, ss. 278, 279, Sch. 25, para. 23(8)(b); S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F3** S. 107(17) inserted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 2(3)(b)**

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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):

- s. 58A(2)(fe) inserted by [2021 c. 17 s. 53](#)