

HEALTH ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 Chapter 1

Supervision of Management and Use of Controlled Drugs

Section 20: Controlled drugs: power to enter and inspect

117. *Section 20* creates a power for police constables or other authorised persons to enter the premises of healthcare providers and to inspect the arrangements for the safe management of controlled drugs. This power would go beyond the existing provision in section 23 of the Misuse of Drugs Act 1971 (the “1971 Act”), which is limited to entering the premises of a person carrying on business as a producer or supplier of any controlled drugs. The intention is that the inspections would generally be carried out by police constables or by accountable officers appointed under section 17 and their staff, or by the regulatory bodies with inspection rights such as the Royal Pharmaceutical Society of Great Britain, the Healthcare Commission and the Commission for Social Care Inspection although the section allows for other persons to be authorised by the relevant authority.
118. *Subsection (1)* sets out the general power. *Subsection (3)* prevents an authorised person from entering relevant premises which are or form part of a private dwelling unless they are accompanied by a police constable. However, it also creates regulation making powers which can prescribe circumstances in which this regulation does not apply, for example, in the regular inspection of care homes which are legally defined as private dwellings.
119. *Subsection (4)* allows the authorised person to take copies of relevant records and retain them. *Subsection (5)* defines the persons who would be authorised to carry out inspections, including accountable officers and staff of designated bodies and allows the relevant authority to authorise other persons in addition to accountable officers and their staff, while *subsection (6)* enables the relevant authority to exclude particular categories of designated bodies from the general authorisations under subsection (5). *Subsection (7)* allows the relevant authority to define more closely the categories of premises which are subject to inspection, subject to the general constraints of *subsection (8)*.