



Fire (Scotland) Act 2005

2005 asp 5

PART 3

FIRE SAFETY

CHAPTER 2

ENFORCEMENT

62 Powers of enforcement officers

- (1) An enforcement officer may do anything necessary for the purpose mentioned in section 61(3).
- (2) An enforcement officer may in particular under subsection (1)—
 - (a) at any reasonable time (or, in a situation which in the opinion of the officer is or may be dangerous, at any time), enter relevant premises and inspect the whole or part of the relevant premises and anything in them;
 - (b) take onto the relevant premises—
 - (i) such other persons; and
 - (ii) such equipment,as the officer considers necessary;
 - (c) require a person on the relevant premises who is subject to any of the Chapter 1 duties to provide the officer with any—
 - (i) facilities, information, documents or records; or
 - (ii) other assistance,which relate to those duties and which the officer may reasonably request;
 - (d) inspect and copy any documents or records on the relevant premises or remove them from the relevant premises;
 - (e) carry out any inspections, measurements and tests in relation to—
 - (i) the relevant premises; or
 - (ii) an article or substance found on the relevant premises,that the officer considers necessary;

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- (f) take samples of an article or substance found on the relevant premises for the purpose of ascertaining its fire resistance or flammability;
 - (g) if an article found on the relevant premises appears to the officer to have caused or to be likely to cause danger to the safety of a relevant person in respect of harm caused by fire, dismantle the article (but not so as to destroy it or damage it unless it is necessary to do so for the purpose of the inspection); and
 - (h) take possession of an article or substance found in the relevant premises and retain it for as long as is necessary for the purpose of—
 - (i) examining it and doing anything the officer has power to do under paragraph (e) or (g);
 - (ii) ensuring that it is not tampered with before the officer’s examination of it is completed;
 - (iii) ensuring that it is available for use as evidence in proceedings for an offence relevant to the inspection.
- (3) An enforcement officer exercising the power mentioned in subsection (2)(a) shall, if so required, produce evidence of the officer’s authority to do so—
- (a) before entering the premises; or
 - (b) at any time before leaving the premises.
- (4) If an enforcement officer exercises the power in subsection (2)(f), the officer shall—
- (a) leave a notice at the relevant premises with a person who is subject to any of the Chapter 1 duties in relation to the relevant premises (or, if that is impracticable, fix the notice in a prominent position at the relevant premises) giving particulars of the article or substance and stating that the officer has taken a sample of it; and
 - (b) if it is practicable to do so, give such a person at the relevant premises a portion of the sample marked in a manner sufficient to identify it.
- (5) Before exercising the power mentioned in subsection (2)(g), an enforcement officer shall consult such persons as appear to the officer to be appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which the officer proposes to do under that power.
- (6) If requested to do so by a person present in the relevant premises who is subject to any of the Chapter 1 duties in relation to the relevant premises, an enforcement officer shall cause—
- (a) anything which the officer proposes to do on the relevant premises under the power mentioned in paragraph (d) or (e) of subsection (2); or
 - (b) anything which the officer proposes to do under the power mentioned in paragraph (g) of that subsection,
- to be done in the presence of that person.
- (7) If an enforcement officer exercises the power in subsection (2)(h), the officer shall leave a notice at the relevant premises with a person who is subject to any of the Chapter 1 duties in relation to the relevant premises (or, if that is impracticable, fix the notice in a prominent position at the relevant premises) giving particulars of the article or substance and stating that the officer has taken possession of it.
- (8) An enforcement officer who, by virtue of this section, enters relevant premises—
- (a) which are unoccupied; or

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(b) from which the occupier is temporarily absent,
shall on departure leave the relevant premises as effectively secured against
unauthorised entry as the officer found them.