



Revenue Scotland and Tax Powers Act 2014

2014 asp 16

PART 7

INVESTIGATORY POWERS OF REVENUE SCOTLAND

CHAPTER 4

INVESTIGATORY POWERS: PREMISES AND OTHER PROPERTY

Inspection of business premises

141 Power to inspect business premises

- (1) If the condition in subsection (2) is met, a designated officer may enter a person's business premises and inspect—
 - (a) the premises,
 - (b) business assets that are on the premises,
 - (c) business documents that are on the premises.
- (2) That condition is that the designated officer has reason to believe that the inspection is reasonably required for the purpose of checking the person's tax position.
- (3) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.
- (4) In this Chapter—

“business assets” means assets that a designated officer has reason to believe are owned, leased or used in connection with the carrying on of a business by any person (but does not include documents),

“business documents” means documents or copies of documents—

 - (a) that relate to the carrying on of a business by any person, and
 - (b) that form part of any person's statutory records,

Status: This is the original version (as it was originally enacted).

“business premises”, in relation to a person, means premises (or any part of premises) that a designated officer has reason to believe are (or is) used in connection with the carrying on of a business by or on behalf of the person, “premises” includes any building or structure, any land and any means of transport.

142 Power to inspect business premises of involved third parties

- (1) If the condition in subsection (2) is met, a designated officer may enter business premises of an involved third party and inspect—
 - (a) the premises,
 - (b) business assets that are on the premises, and
 - (c) relevant documents that are on the premises.
- (2) That condition is that the designated officer has reason to believe that the inspection is reasonably required for the purpose of checking the position of any person or class of persons as regards a relevant devolved tax.
- (3) In this section—
 - “involved third party” means a person who is, or a category of persons who are, specified by the Scottish Ministers by order,
 - “relevant documents” means such documents as may be so specified,
 - “relevant devolved tax” means such devolved tax as may be so specified.
- (4) The powers under this section may be exercised whether or not the identity of that person is, or the individual identities of those persons are, known to the designated officer.
- (5) The powers under this section do not include power to enter or inspect any part of the premises that is used solely as a dwelling.

143 Carrying out inspections under section 141 or 142

- (1) An inspection under section 141 or 142 may be carried out only—
 - (a) at a time agreed to by the occupier of the premises, or
 - (b) if subsection (2) is satisfied, at any reasonable time.
- (2) This subsection is satisfied if—
 - (a) the occupier of the premises has been given at least 7 days’ notice in writing of the time of the inspection, or
 - (b) the officer has reasonable grounds for believing that giving notice of the inspection would seriously prejudice the assessment or collection of tax.
- (3) A designated officer seeking to carry out an inspection under subsection (2)(b) must provide a notice in writing as follows—
 - (a) if the occupier of the premises is present at the time the inspection is to begin, the notice must be provided to the occupier,
 - (b) if the occupier of the premises is not present but a person who appears to the officer to be in charge of the premises is present, the notice must be provided to that person,
 - (c) in any other case, the notice must be left in a prominent place on the premises.

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- (4) The notice referred to in subsection (2)(a) or (3) must state the possible consequences of obstructing the designated officer in the exercise of the power.
- (5) If a notice referred to in subsection (2)(a) or (3) is given in respect of an inspection approved by the tribunal (see section 147), it must state that the inspection has been so approved.

144 Carrying out inspections under section 141 or 142: further provision

- (1) A designated officer carrying out an inspection under section 141 or 142 has the following powers.
- (2) On entering the premises, the officer may take any person authorised by the officer and, if the officer has reasonable cause to apprehend any serious obstruction in the execution of the inspection, a constable.
- (3) Subject to subsection (9), on entering the premises, the officer or a person authorised by the officer may take any equipment or materials required for any purpose for which the inspection is being carried out.
- (4) The officer may make such examination or investigation the officer considers to be necessary in the circumstances.
- (5) The officer may direct that the premises or any part of them, or anything in them, be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any such examination or investigation.
- (6) The officer or a person authorised by the officer may take samples of material on the premises.
- (7) The power to take samples mentioned in subsection (6) includes power—
 - (a) to carry out experimental borings or other works on the premises, and
 - (b) to install, keep or maintain monitoring and other apparatus there.
- (8) Any sample taken under subsections (6) and (7) is to be disposed of in such manner as Revenue Scotland may determine.
- (9) An officer or authorised person may exercise the power mentioned in subsection (3) only—
 - (a) at a time agreed to by the occupier of the premises, or
 - (b) if subsection (10) is satisfied, at any reasonable time.
- (10) This subsection is satisfied if—
 - (a) in a case where notice was given under section 143(2)(a), that the notice informed the occupier of the premises that the officer or authorised person intended to exercise the power mentioned in subsection (3), or
 - (b) the officer has reasonable grounds for believing that giving notice of the exercise of that power would seriously prejudice the assessment or collection of tax.
- (11) Section 143(3) to (5) apply to the exercise of the power mentioned in subsection (3) by virtue of subsection (10)(b) as they apply to an inspection carried out by virtue of section 143(2)(b).

Status: This is the original version (as it was originally enacted).

Inspection for valuation etc.

145 Power to inspect property for valuation etc.

- (1) A designated officer may enter and inspect premises for the purpose of valuing the premises if the valuation is reasonably required for the purpose of checking any person's tax position.
- (2) A designated officer may enter premises and inspect—
 - (a) the premises,
 - (b) any other property on the premises,for the purpose of valuing, measuring or determining the character of the premises or property.
- (3) Subsection (2) only applies if the valuation, measurement or determination is reasonably required for the purposes of checking any person's tax position.
- (4) A person who the designated officer considers is needed to assist with the valuation, measurement or determination may enter and inspect the premises or property with the officer.

146 Carrying out inspections under section 145

- (1) An inspection under section 145 may be carried out only if condition A or B is met.
- (2) Condition A is that—
 - (a) the inspection is carried out at a time agreed to by a relevant person, and
 - (b) the relevant person has been given notice in writing of the agreed time of the inspection.
- (3) "Relevant person" means—
 - (a) the occupier of the premises, or
 - (b) if the occupier cannot be identified or the premises are vacant, a person who controls the premises.
- (4) Condition B is that—
 - (a) the inspection has been approved by the tribunal, and
 - (b) any relevant person specified by the tribunal has been given at least 7 days' notice in writing of the time of the inspection.
- (5) A notice under subsection (4)(b) must state the possible consequences of obstructing the officer in the exercise of the power.
- (6) If a notice is given under this section in respect of an inspection approved by the tribunal (see section 147), it must state that the inspection has been so approved.
- (7) A designated officer seeking to carry out an inspection under section 145 must produce evidence of authority to carry out the inspection if asked to do so by—
 - (a) the occupier of the premises, or
 - (b) any other person who appears to the officer to be in charge of the premises or property.

Status: This is the original version (as it was originally enacted).

Approval of tribunal for premises inspections

147 Approval of tribunal for premises inspections

- (1) A designated officer may ask the tribunal—
 - (a) to approve an inspection under section 141, 142 or 145, or
 - (b) to approve the exercise, in relation to an inspection under section 141 or 142, of any of the powers mentioned in section 144,(and for the effect of obtaining such approval see section 195 (penalties for failure to comply or obstruction)).
- (2) An application for approval under this section may be made without notice (except as required under subsection (4)).
- (3) The tribunal may not approve an inspection under section 141 or 142 unless the tribunal is satisfied that, in the circumstances, the inspection is justified.
- (4) The tribunal may not approve an inspection under section 145 unless—
 - (a) the person whose tax position is the subject of the proposed inspection has been given a reasonable opportunity to make representations to the designated officer about that inspection,
 - (b) the occupier of the premises has been given a reasonable opportunity to make such representations,
 - (c) the tribunal has been given a summary of any representations made, and
 - (d) the tribunal is satisfied that, in the circumstances, the inspection is justified.
- (5) Subsection (4)(b) does not apply if the tribunal is satisfied that the occupier of the premises cannot be identified.
- (6) A decision of the tribunal under this section is final.

Other powers in relation to premises

148 Power to mark assets and to record information

The powers under sections 141 to 146 include—

- (a) power to mark business assets, and anything containing business assets, for the purpose of indicating that they have been inspected, and
- (b) power to obtain and record information (whether electronically or otherwise) relating to the premises, property, assets and documents that have been inspected.

Restriction on inspection of documents

149 Restriction on inspection of documents

A designated officer may not inspect a document under this Chapter if (or to the extent that), by virtue of Chapters 2 and 3, an information notice given at the time of the inspection to the occupier of the premises could not require the occupier to produce the document.