



Town and Country Planning (Scotland) Act 1997

1997 CHAPTER 8

PART VII

SPECIAL CONTROLS

CHAPTER I

TREES

Rights of entry

176 Rights to enter without warrant

- (1) Any person duly authorised in writing by a planning authority may enter any land for the purpose of—
 - (a) surveying it in connection with making or confirming a tree preservation order with respect to the land,
 - (b) ascertaining whether an offence under section 171 or 172 has been committed on the land, or
 - (c) determining whether a notice under section 168(1) should be served on the owner of the land,if there are reasonable grounds for entering for the purpose in question.
- (2) Any person duly authorised in writing by the Secretary of State may enter any land for the purpose of surveying it in connection with making, amending or revoking a tree preservation order with respect to the land if there are reasonable grounds for entering for that purpose.

Status: This is the original version (as it was originally enacted).

- (3) Any person who is duly authorised in writing by a planning authority may enter any land in connection with the exercise of any functions conferred on the authority by or under sections 159 to 163 and 167 to 170.
- (4) Any person who is an officer of the Valuation Office may enter any land for the purpose of surveying it, or estimating its value, in connection with a claim for compensation in respect of any land which is payable by the planning authority under section 165.
- (5) Any person who is duly authorised in writing by the Secretary of State may enter any land in connection with the exercise of any functions conferred on the Secretary of State by or under sections 160 to 162, 168(1) to (3), 169 and 170.
- (6) The Secretary of State shall not authorise any person as mentioned in subsection (2) without consulting the planning authority.
- (7) Admission shall not be demanded as of right—
 - (a) by virtue of subsection (1) or (2) to any building used as a dwellinghouse, or
 - (b) by virtue of subsection (3), (4) or (5) to any land which is occupied,
 unless 24 hours' notice of the intended entry has been given to the occupier.
- (8) Any right to enter by virtue of this section shall be exercised at a reasonable hour.

177 Right to enter under warrant

- (1) If the sheriff is satisfied—
 - (a) that there are reasonable grounds for entering any land for any of the purposes mentioned in section 176(1) or (2), and
 - (b) that—
 - (i) admission to the land has been refused, or a refusal is reasonably apprehended, or
 - (ii) the case is one of urgency,
 he may issue a warrant authorising any person duly authorised in writing by a planning authority or, as the case may be, the Secretary of State to enter the land.
- (2) For the purposes of subsection (1)(b)(i) of this section admission to land shall be regarded as having been refused if no reply is received to a request for admission within a reasonable period.
- (3) A warrant authorises entry on one occasion only and that entry must be—
 - (a) within one month from the date of the issue of the warrant, and
 - (b) at a reasonable hour, unless the case is one of urgency.

178 Rights of entry: supplementary provisions

- (1) Any power conferred under or by virtue of section 176 or 177 to enter land (referred to in this section as “a right of entry”) shall be construed as including power to take samples from any tree and samples of the soil.
- (2) A person authorised to enter land in the exercise of a right of entry—
 - (a) shall, if so required, produce evidence of his authority and state the purpose of his entry before so entering,

- (b) may take with him such other persons as may be necessary, and
 - (c) on leaving the land shall, if the owner or occupier is not then present, leave it as effectively secured against trespassers as he found it.
- (3) Any person who wilfully obstructs a person acting in the exercise of a right of entry shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) If any damage is caused to land or moveable property in the exercise of a right of entry, compensation may be recovered by any person suffering the damage from the authority who gave the written authority for the entry or, as the case may be, the Secretary of State.