

Status: Point in time view as at 01/04/1996.

Changes to legislation: Environmental Protection Act 1990, Cross Heading: Powers of entry etc is up to date with all changes known to be in force on or before 16 July 2024. 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)

SCHEDULES

SCHEDULE 3

STATUTORY NUISANCES: SUPPLEMENTARY PROVISIONS

Powers of entry etc

- 2 (1) Subject to sub-paragraph (2) below, any person authorised by a local authority may, on production (if so required) of his authority, enter any premises at any reasonable time—
- (a) for the purpose of ascertaining whether or not a statutory nuisance exists; or
 - (b) for the purpose of taking any action, or executing any work, authorised or required by Part III.
- (2) Admission by virtue of sub-paragraph (1) above to any premises used wholly or mainly for residential purposes shall not except in an emergency be demanded as of right unless twenty-four hours notice of the intended entry has been given to the occupier.
- (3) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied or the occupier is temporarily absent, or that the case is one of emergency, or that an application for admission would defeat the object of the entry; and
 - (b) that there is reasonable ground for entry into the premises for the purpose for which entry is required,
- the justice may by warrant under his hand authorise the local authority by any authorised person to enter the premises, if need be by force.
- (4) An authorised person entering any premises by virtue of sub-paragraph (1) or a warrant under sub-paragraph (3) above may—
- (a) take with him such other persons and such equipment as may be necessary;
 - (b) carry out such inspections, measurements and tests as he considers necessary for the discharge of any of the local authority's functions under Part III; and
 - (c) take away such samples or articles as he considers necessary for that purpose.
- (5) On leaving any unoccupied premises which he has entered by virtue of sub-paragraph (1) above or a warrant under sub-paragraph (3) above the authorised person shall leave them as effectually secured against trespassers as he found them.
- (6) A warrant issued in pursuance of sub-paragraph (3) above shall continue in force until the purpose for which the entry is required has been satisfied.
- (7) Any reference in this paragraph to an emergency is a reference to a case where the person requiring entry has reasonable cause to believe that circumstances exist which

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are likely to endanger life or health and that immediate entry is necessary to verify the existence of those circumstances or to ascertain their cause and to effect a remedy.

[^{F1}(8) In the application of this paragraph to Scotland, a reference to a justice of the peace or to a justice includes a reference to the sheriff.]

Textual Amendments

F1 Sch. 3 para. 2(8) added (1.4.1996) by 1995 c. 25, s. 107, **Sch. 17 para. 7(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art.3**.

Modifications etc. (not altering text)

C1 Sch. 3 para. 2 applied (with modifications) (S.) (26.1.2009) by **Water Services etc. (Scotland) Act 2005 (asp 3)**, s. 26(10A) (as inserted by **Public Health etc. (Scotland) Act 2008 (asp 5)**, s. **115(3)** (with s. 127); S.S.I. 2009/9, **art. 2(a)**, Sch. 1)

[^{F2}2A (1) Any person authorised by a local authority may on production (if so required) of his authority—

- (a) enter or open a vehicle, machinery or equipment, if necessary by force, or
- (b) remove a vehicle, machinery or equipment from a street [^{F3}or, in Scotland, road]] to a secure place,

for the purpose of taking any action, or executing any work, authorised by or required under Part III in relation to a statutory nuisance within section 79(1)(ga) above caused by noise emitted from or caused by the vehicle, machinery or equipment.

- (2) On leaving any unattended vehicle, machinery or equipment that he has entered or opened under sub-paragraph (1) above, the authorised person shall (subject to sub-paragraph (3) below) leave it secured against interference or theft in such manner and as effectually as he found it.
- (3) If the authorised person is unable to comply with sub-paragraph (2) above, he shall for the purpose of securing the unattended vehicle, machinery or equipment either—
 - (a) immobilise it by such means as he considers expedient, or
 - (b) remove it from the street to a secure place.
- (4) In carrying out any function under sub-paragraph (1), (2) or (3) above, the authorised person shall not cause more damage than is necessary.
- (5) Before a vehicle, machinery or equipment is entered, opened or removed under sub-paragraph (1) above, the local authority shall notify the police of the intention to take action under that sub-paragraph.
- (6) After a vehicle, machinery or equipment has been removed under sub-paragraph (1) or (3) above, the local authority shall notify the police of its removal and current location.
- (7) Notification under sub-paragraph (5) or (6) above may be given to the police at any police station in the local authority's area or, in the case of the Temples, at any police station of the City of London Police.
- (8) For the purposes of section 81(4) above, any expenses reasonably incurred by a local authority under sub-paragraph (2) or (3) above shall be treated as incurred by the authority under section 81(3) above in abating or preventing the recurrence of the statutory nuisance in question.

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Textual Amendments

- F2** Sch. 3 para. 2A inserted (E.W.) (5.1.1994) by 1993 c. 40, ss. 4(5), 12(1)
- F3** Words in Sch. 3 para. 2A(1)(b) inserted (1.4.1996) by 1995 c. 25, s. 107, Sch. 17 para. 7(c) (with ss. 7(6), 115, 117); S.I. 1996/186, art.3.

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