



Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997

1997 CHAPTER 9

PART III

GENERAL

Miscellaneous provisions

78 Rights of entry: supplementary provisions.

- (1) Subject to subsection (2), a person authorised to enter any land in pursuance of a right of entry conferred under or by virtue of section 76 or 77 (referred to in this section as “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.
- (2) Admission to any land which is occupied shall not be demanded as of right by virtue of section 76 or of this section unless 24 hours’ notice of the intended entry has been given to the occupier of the land.
- (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; and subsections (4) and (5) of section 27 shall apply in relation to compensation under this subsection as they apply in relation to compensation under sections 25 to 27.

Changes to legislation: Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, Section 78 is up to date with all changes known to be in force on or before 21 May 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) [View outstanding changes](#)

- (5) If any person who enters any land in exercise of a right of entry discloses to any person any information obtained by him while on the land as to any manufacturing process or trade secret, he shall be guilty of an offence.
- (6) Subsection (5) does not apply if the disclosure is made by a person in the course of performing his duty in connection with the purpose for which he was authorised to enter the land.
- (7) A person who is guilty of an offence under subsection (5) shall be liable—
 - (a) on summary conviction to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine or both.
- (8) No person shall carry out any works in exercise of a power conferred under section 49 unless notice of his intention to do so was included in the notice required by subsection (2) of this section.
- (9) The authority of the ^{F1}Scottish Ministers shall be required for the carrying out of works in exercise of a power conferred under section 49 if—
 - (a) the land in question is held by statutory undertakers, and
 - (b) they object to the proposed works on the ground that the execution of the works would be seriously detrimental to the carrying on of their undertaking.

^{F2}(10)

Textual Amendments	
F1	Words in s. 78(9) substituted (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 128(3) ; S.I. 1998/3178, art. 3
F2	S. 78(10) repealed (1.7.1999) by S.I. 1999/1820, art. 4, Sch. 2 Pt. I para. 128(3) , Pt. IV; S.I. 1998/3178, art. 3

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 82(1)(aa)-(ad) inserted by [2006 asp 17 s. 55\(5\)](#)