

GOVERNMENT DEPARTMENTS AND AGENCIES, RIGHT OF ENTRY TO PRIVATE PROPERTY,
STATUTES

2035. Mr M.G. House to the Deputy Premier; Treasurer; Minister for Energy

- (1) Will the Deputy Premier provide the details of the statutes under his ministerial portfolio that allow officers of the department, agencies or persons appointed by them to enter private property -
 - (a) with a warrant; and
 - (b) without a warrant?
- (2) Will the Deputy Premier detail the circumstances under which such entry may be exercised?
- (3) Will the Deputy Premier advise whether there is a difference with regard to such entry between -
 - (a) a private residential property; and
 - (b) other private property?

Mr E.S. RIPPER replied:

Western Power Corporation

- (1)
 - (a) Energy Operators (Powers) Act 1979 as follows:

Section 28 a general power of entry for works and maintenance. (Prior notice under s. 46 is required for the first entry).

Section 43 a general power of entry to pre existing works of Western Power and its predecessors.

Section 46 entry notice provisions and provisions when entry is refused or withheld.

Section 48 a power of entry, emergency conditions

Section 49 a general power of entry for works and maintenance, repair, replacement etc of those works (subject to limitation of s. 50).

Section 54 express power of entry to deal with interfering vegetation.

Section 57 power of entry in a supply system emergency.

Section 65 power of entry for access to meter and service apparatus.

Section 68 Inspector's powers of entry onto consumer's premises.
 - (b) Section 46 (7) warrant from a Justice of the Peace, where entry is denied, (has no practical effect as the regulations to provide the mechanism for operation of the subsection were never made).
 - Section 46(8) injunction from a Supreme Court Justice to require an occupier/owner of land to give access when lawful access is denied.
- (2) Circumstances under which the power can be exercised is answered by references to question 1. It is not possible to list every circumstance and combination of circumstances.
- (3)
 - (a)-(b) There is no difference between entry to a private residential property and other private property.

Department of Treasury and Finance

- (1)
 - (a)
 - section 98(2)(b) of the Taxation Administration Act 2003;
 - section 42(2)(b) of the First Home Owner Grant Act 2000; and
 - section 6(2) of the Taxation Reciprocal Powers Act 1989.
 - (b)
 - sections 98(1) and 98(2)(c) of the Taxation Administration Act 2003;
 - sections 42(1) and 42(2)(c) of the First Home Owner Grant Act 2000; and
 - sections 6(1) and 6(2) of the Taxation Reciprocal Powers Act 1989.
- (2) Under the Taxation Administration Act, the First Home Owner Grant Act and the Taxation Reciprocal Powers Act, entry of private property with a warrant may be exercised in accordance with the authorisation conferred by the warrant.

Under the Taxation Administration Act and the First Home Owner Grant Act, entry of private property without a warrant may be exercised:

by an investigator using his or her powers of investigation;

at any reasonable time with the consent of the occupier of the premises; or

if the investigator believes, on reasonable grounds, that it is urgently necessary to do so in order to prevent the destruction of or interference with relevant material and the Commissioner has, in the particular case, given his prior authorisation in writing to do so.

Under the Taxation Reciprocal Powers Act, entry of private property without a warrant may be exercised:

with the consent of the occupier of the premises; or

at all reasonable times for the purpose of ascertaining whether a recognised revenue law is being or has been contravened.

- (3) Under the Taxation Administration Act and the First Home Owner Grant Act, entry of private residential property may be exercised as follows:

at any reasonable time with the consent of the occupier of the premises;

in accordance with the authorisation conferred by a warrant; or

if the investigator believes, on reasonable grounds, that it is urgently necessary to do so in order to prevent the destruction of or interference with relevant material and the Commissioner has, in the particular case, given his prior authorisation in writing to do so.

Under the Taxation Administration Act, the First Home Owner Grant Act and the Taxation Reciprocal Powers Act, entry of other private property may be exercised by an investigator using his or her powers of investigation.

Under the Taxation Reciprocal Powers Act, entry of private residential property may be exercised:

with the consent of the occupier of the premises; or

in accordance with the authorisation conferred by a warrant.

Under the Taxation Reciprocal Powers Act, entry of other private property may be exercised at all reasonable times for the purpose of ascertaining whether a recognised revenue law is being or has been contravened.

Office of Energy

- (1) Section 14 (a) of the Energy Coordination Act 1994 provides for an inspector appointed under Part 3 to enter private property without notice.
- (2) In accordance with Section 14(a) an inspector may enter without notice on or into any land, premises or thing where he or she has reason to believe that the generation, transmission, distribution, supply or use of the form of energy to which his or her powers relate, is or may be taking place irrespective of the source or origin of the energy, or where he or she has reason to believe any plant, works, apparatus or installation used for any of those purposes is or may be situated.
- (3) There is no difference with regard to such entry between a private residential property and other private property.