

## SCHEDULE 4

(introduced by section 39)

### POWERS OF ENTRY, INSPECTION AND TESTING: FURTHER PROVISION

#### *Time and notice of entry*

- 1 (1) Entry into any premises by virtue of section 39(1) or (3) may be demanded only at a reasonable time.
- (2) The Scottish Ministers or, as the case may be, the local authority must give 3 days' notice of the intended entry to the occupier and, if the owner is known, the owner of the premises.
- (3) Sub-paragraphs (1) and (2) do not apply where the case is one of urgency.

#### *Warrant to exercise power*

- 2 (1) If a sheriff or justice of the peace is satisfied, by evidence on oath, that—
  - (a) there are reasonable grounds for the exercise in relation to any premises of a power conferred by section 39(1) or (3), and
  - (b) one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,the sheriff or justice may by warrant authorise the Scottish Ministers or, as the case may be, the local authority and any person authorised by them or it for the purpose to exercise the power in relation to those premises in accordance with the warrant and, if need be, by force.
- (2) The conditions mentioned in sub-paragraph (1) are—
  - (a) that the exercise of the power in relation to the premises has been refused,
  - (b) that such a refusal is reasonably apprehended,
  - (c) that the premises are unoccupied,
  - (d) that the occupier is temporarily absent from the premises,
  - (e) that the case is one of urgency,
  - (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (3) A sheriff or justice must not issue a warrant under this schedule by virtue only of being satisfied that a condition specified in sub-paragraph (2)(a) or (b) is fulfilled unless the sheriff or justice is also satisfied—
  - (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises, or
  - (b) that the giving of such notice would defeat the object of the proposed entry.
- (4) A warrant under this schedule continues in force until the purpose for which the warrant was issued has been fulfilled or, if earlier, the expiry of such period as the warrant may specify.

#### *Evidence of authority*

- 3 A person entitled to exercise any power conferred by section 39(1) or (3) must, if required to do so, produce written evidence of that entitlement.

*Supplementary powers*

- 4 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) is entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take on to the premises such other persons and such equipment as may be necessary.

*Duty to secure premises*

- 5 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) must leave the premises as effectually secured against unauthorised entry as that person found them.

*Commercially confidential information*

- 6 A person who enters any premises in the exercise of any power conferred by section 39(1) or (3) and who makes use of or discloses any information obtained by that person on those premises with regard to any manufacturing process or trade secret is guilty of an offence.