

## SCHEDULES

### SCHEDULE 4

Articles 111 to 125 and 223 to 233

#### RIGHTS OF ENTRY

#### PART I

#### RIGHTS REQUIRING NOTICE FOR ENTRY TO NON-BUSINESS PREMISES

##### *Notice of entry*

1.—(1) Where this Part of this Schedule applies to any right of entry conferred by a provision of this Order, admission to any premises which are not business premises shall not be demanded as of right by virtue of that provision, unless 24 hours' notice of the intended entry has been given to the occupier of the premises.

(2) In this paragraph “business premises” means—

- (a) any factory (within the meaning of the Factories Act (Northern Ireland) 1965 (c. 20); or
- (b) any place in which persons are employed otherwise than in domestic service.

##### *Warrants to exercise right*

2.—(1) Subject to sub-paragraph (3), if it is shown to the satisfaction of a lay magistrate, on complaint on oath—

- (a) that any one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to any premises which a person is entitled to enter by virtue of a right of entry to which this Part of this Schedule applies; and
- (b) that there is reasonable ground for entry to the premises for any purpose for which the right is exercisable,

the magistrate may by warrant authorise that person to enter the premises, if need be by force.

(2) The conditions mentioned in sub-paragraph (1) are—

- (a) that admission to the premises has been refused to the person having the right to enter them;
- (b) that such refusal is apprehended;
- (c) that the premises are unoccupied or the occupier is temporarily absent;
- (d) that the case is one of urgency;
- (e) that an application for admission would defeat the object of the entry.

(3) A warrant under this Part of this Schedule shall not be issued by a lay magistrate in a case in which he is satisfied that the condition mentioned in head (a) or (b) of sub-paragraph (2) is fulfilled unless he is also satisfied—

- (a) that notice of the intention to apply for a warrant has been given to the occupier;

*Status: This is the original version (as it was originally made).*

- (b) that a condition mentioned in either of heads (c) and (d) of that sub-paragraph is also fulfilled in relation to the premises; or
- (c) that the giving of such notice as is mentioned in head (a) would defeat the object of the entry.

(4) Every warrant under this Part of this Schedule shall continue in force until the purpose for which the entry is necessary has been fulfilled.

(5) A person leaving any unoccupied premises which he has entered by virtue of a warrant under this Part of this Schedule shall leave them as effectually secured against trespassers as he found them.

*Supplementary power of person making entry*

3. Any person entitled to enter any premises by virtue of a right to which this Part of this Schedule applies, or of a warrant under this Part of this Schedule, may take with him such other persons and such equipment as may be necessary.

*Obstruction of person exercising right*

4. Any person who intentionally obstructs any person upon whom a right of entry has been conferred by virtue of—

- (a) any provision of this Order relating to a right of entry to which this Part of this Schedule applies; or
- (b) a warrant under this Part of this Schedule,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

*Duty of persons exercising rights to maintain confidentiality*

5.—(1) Without prejudice to Article 265 and subject to sub-paragraphs (2) and (3), any person who is admitted to any premises in compliance—

- (a) with any provision of this Order relating to a right of entry to which this Part of this Schedule applies; or
- (b) with a warrant under this Part of this Schedule,

shall be guilty of an offence under this paragraph if he discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret.

(2) A person shall not be guilty of an offence under this paragraph in respect of any disclosure made in the performance of his duty.

(3) A person who is guilty of an offence under this paragraph shall be liable on summary conviction, to a fine not exceeding level 5 on the standard scale.

## PART II

### OTHER RIGHTS OF ENTRY AND RELATED POWERS

#### *Notice of Entry*

6.—(1) Without prejudice to any power exercisable by virtue of a warrant under this Part of this Schedule, no person shall make an entry into any premises by virtue of any right or power to which this Part of this Schedule applies except—

- (a) in an emergency; or
- (b) at a reasonable time and after the required notice of the intended entry has been given to the occupier of the premises.

(2) For the purposes of this paragraph the required notice is—

- (a) in the case of the rights and powers conferred by virtue of any of Articles 114(4), 124(2) and (3), 125(7) and (8) and 231(1)(c) and (3), 24 hours' notice; and
- (b) in any other case, 7 days' notice.

(3) For the purposes of the application of this Part of this Schedule to any right or power conferred by Article 229, the reference in sub-paragraph (1) to an emergency—

- (a) in relation to any entry to premises for the purposes of, or for purposes connected with, the exercise or proposed exercise of any power in relation to a street, includes a reference to any circumstances requiring the carrying out of emergency works within the meaning of Article 6 of the [Street Works \(Northern Ireland\) Order 1995 \(NI 19\)](#); and
- (b) in relation to any other entry to premises, includes a reference to any danger to property and to any interruption of a supply of water provided to any premises by any person and to any interruption of the provision of sewerage services to any premises.

(4) For the purposes of the application of this Part of this Schedule to the rights and other powers conferred by Article 233, sub-paragraph (1) shall have effect as if the power in an emergency to make an entry to any premises otherwise than at a reasonable time and after the required notice were omitted.

#### *Warrant to exercise right or power*

7.—(1) If it is shown to the satisfaction of a lay magistrate on complaint on oath—

- (a) that there are reasonable grounds for the exercise in relation to any premises of a right or power to which this Part of this Schedule applies; and
- (b) that one or more of the conditions specified in sub-paragraph (2) is fulfilled in relation to those premises,

the magistrate may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the right or 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)(b) are—

- (a) that the exercise of the right or 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; or

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

- (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (3) A warrant under this Part of this Schedule shall not be issued by a lay magistrate in a case in which he is satisfied that the condition mentioned in head (a) or (b) of sub-paragraph (2) is fulfilled, unless he 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 a notice would defeat the object of the proposed entry.
- (4) Every warrant under this Part of this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

*Manner of exercise of right or power*

**8.** A person designated as the person who may exercise any right or power to which this Part of this Schedule applies shall produce evidence of his designation and other authority before he exercises the right or power.

*Supplementary powers of person making entry, etc.*

**9.** A person authorised to enter any premises by virtue of any right or power to which this Part of this Schedule applies shall be entitled, subject in the case of a right or power exercisable under a warrant to the terms of the warrant, to take with him on to the premises such other persons and such equipment as may be necessary.

*Duty to secure premises*

**10.** A person who enters any premises in the exercise of any right or power to which this Part of this Schedule applies shall leave the premises as effectually secured against trespassers as he found them.

*Compensation*

**11.—(1)** Where any person exercises any right or power to which this Part of this Schedule applies, it shall be the duty of the relevant authority to make compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by the designated person of that right or power or of any power to take any person or equipment with him when entering the premises in relation to which the right or power is exercised; or
  - (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 10.
- (2) Compensation shall not be payable by virtue of sub-paragraph (1) in respect of any loss or damage—
- (a) if it is attributable to the default of the person who sustained it;
  - (b) if compensation is payable in respect of it by virtue of any other provision of this Order; or
  - (c) to the extent that it is made good by the relevant undertaker.
- (3) Any dispute as to a person's entitlement to compensation under this paragraph or as to the amount of any such compensation, shall be referred to the Lands Tribunal.

*Obstruction of person exercising right or power*

**12.** A person who intentionally obstructs another person acting in the exercise of any right or power to which this Part of this Schedule applies shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

*Interpretation of Part II*

**13.—(1)** In this Part of this Schedule “relevant authority”, in relation to a right or power to which this Part of this Schedule applies, means the person who, by virtue of—

- (a) the provision by which the right or power is conferred; or
- (b) the warrant,

is entitled to designate the person by whom the right or power may be exercised.

(2) References in this Part of this Schedule to a right or power to which this Part of this Schedule applies include references to a right or power exercisable by virtue of a warrant under this Part of this Schedule.

(3) For the purposes of paragraphs 10 and 11 a person enters any premises by virtue of a right or power to which this Part of this Schedule applies notwithstanding that he has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with—

- (a) any requirement to enter those premises at a reasonable time or after giving notice of his intended entry; or
- (b) the requirement imposed by paragraph 8.