

SCHEDULES

SCHEDULE 4

RIGHTS OF ENTRY

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

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- (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
 - (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.