

SCHEDULE 2

Regulation 9

SUPPLEMENTARY PROVISIONS IN RESPECT OF POWERS OF ENTRY AND INSPECTION

Interpretation

1. In this Schedule—

- (a) “justice” means a sheriff, stipendiary magistrate or justice of the peace;
- (b) “premises” includes any land, vehicle, vessel or mobile plant; and
- (c) “relevant power” means a power conferred by regulation 9 including a power exercisable by virtue of a warrant under this Schedule.

Warrants

2.—(1) If it is shown to the satisfaction of a justice on sworn information in writing—

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

the justice may by warrant authorise a competent authority to designate a person who shall be authorised 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)(b) 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 and the case is one of urgency; or
- (e) that an application for admission to the premises would defeat the object of the proposed entry.

(3) In a case where paragraph (3) of regulation 9 applies, a justice shall not issue a warrant under this Schedule by virtue only of being satisfied that the exercise of a power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless also satisfied that the notice required by that paragraph has been given and that the period of that notice has expired.

(4) Every warrant under this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

Evidence of authority

3. A person designated as the person who may exercise a relevant power shall produce evidence of that designation and other authority before exercising the power.

Admissibility of information

4.—(1) Subject to regulation 9(7), information obtained in consequence of the exercise of a relevant power, with or without the consent of any person, shall be admissible in evidence against that or any other person.

Status: This is the original version (as it was originally made).

(2) Without prejudice to the generality of sub-paragraph (1), information obtained by means of monitoring or other apparatus installed on any premises in the exercise of a relevant power, with or without the consent of any person in occupation of the premises, shall be admissible in evidence in any proceedings against that or any other person.

Securing of premises

5. A person who, in the exercise of a relevant power, enters on any premises which are unoccupied or whose occupier is temporarily absent shall leave the premises as effectually secured against trespassers as they were on entry.

Compensation

6.—(1) Where any person exercises any power conferred by regulation 9(2)(a) or (b), it shall be the duty of the competent authority under whose authorisation that person acts to make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by that person of that power; or
- (b) the performance of, or failure of that person to perform, the duty imposed by paragraph 5.

(2) Compensation shall not be payable by virtue of sub-paragraph (1) in respect of any loss or damage if compensation is payable in respect of that loss or damage by virtue of any other enactment.

(3) A person exercising any power conferred by regulation 9(2)(a) or (b) shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of any relevant power if the court is satisfied that the person acted in good faith.