

## SCHEDULE 9

### Powers of entry and inspection

#### SECTION 2

##### *Warrants, evidence and compensation*

#### **Entry and inspection under warrant**

**9.** Subject to paragraph 11, if it is shown to the satisfaction, in England and Wales of a justice of the peace, in Scotland of the sheriff or a justice of the peace, or in Northern Ireland of a lay magistrate, on sworn information in writing—

- (a) that there are relevant grounds for the exercise in relation to any premises of the powers under paragraph 1 (“the power”); and
- (b) that one or more of the conditions specified in paragraph 10 is fulfilled in relation to those premises,

the justice, sheriff or lay magistrate may by warrant authorise the administrator to designate a person who is authorised to exercise the power in relation to those premises, in accordance with the warrant.

**10.** The conditions mentioned in paragraph 9 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.

**11.** In a case where paragraph 2 applies, a justice of the peace, sheriff or lay magistrate must not issue a warrant under paragraph 9 by virtue only of being satisfied that the exercise of the power in relation to any premises has been refused, or that a refusal is reasonably apprehended, unless the justice of the peace, sheriff or lay magistrate is also satisfied that the notice required by paragraph 2 has been given and that the period of that notice has expired.

**12.** Every warrant under paragraph 9 continues in force until the purposes for which the warrant was issued have been fulfilled.

**13.** An authorised person must produce evidence of that person’s authorisation or designation and other authority before exercising the power.

**14.** A person who, in exercise of the power, enters on any premises which are unoccupied or whose occupier is temporarily absent must leave the premises as effectively secured against trespassers as that person found them.

#### **Compensation in respect of entry and inspection**

**15.** Where any person exercises any power conferred by paragraph 1(a) or (b), it is the duty of the administrator 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 of a power under paragraph 1 by the authorised person; or
- (b) the performance of, or failure of the authorised person to perform, the duty imposed under paragraph 14.

- 16.** Compensation is not payable by virtue of paragraph 15 in respect of any loss or damage if—
- (a) it is attributable to the default of the person who sustained it; or
  - (b) it is loss or damage in respect of which compensation is payable by virtue of any other enactment.
- 17.** Any dispute as to a person's entitlement to compensation under paragraph 15, or as to the amount of any such compensation—
- (a) in England and Wales, must be referred to the arbitration of a single arbitrator appointed by agreement between the administrator and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Secretary of State;
  - (b) in Scotland, must be referred to the arbitration of an arbiter, appointed by agreement between the administrator and the person who claims to have sustained the loss or damage or, in default of agreement, appointed by the Scottish Ministers; or
  - (c) in Northern Ireland, must be referred to and determined by the Lands Tribunal for Northern Ireland.
- 18.** An authorised person is not to be liable in any civil proceedings for anything done in the purported exercise of the powers under paragraph 1 if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.