

## SCHEDULES

### SCHEDULE 18

Section 108.

#### SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

##### *Interpretation*

- 1 (1) In this Schedule—
- “designated person” means an authorised person, within the meaning of section 108 of this Act and includes a person designated by virtue of paragraph 2 below;
- “relevant power” means a power conferred by section 108 of this Act, including a power exercisable by virtue of a warrant under this Schedule.
- (2) Expressions used in this Schedule and in section 108 of this Act have the same meaning in this Schedule as they have in that section.

##### *Issue of warrants*

- 2 (1) If it is shown to the satisfaction of a justice of the peace or, in Scotland, the sheriff or a justice of the peace, 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) below is fulfilled in relation to those premises,
- the justice or sheriff may by warrant authorise an enforcing 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) above 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 subsection (6) of section 108 of this Act applies, a justice of the peace or sheriff 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 he is also satisfied that the notice required by that subsection has been given and that the period of that notice has expired.

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*Status: This is the original version (as it was originally enacted).*

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

*Manner of exercise of powers*

- 3       A person designated as the person who may exercise a relevant power shall produce evidence of his designation and other authority before he exercises the power.

*Information obtained to be admissible in evidence*

- 4       (1) Subject to section 108(12) of this Act, 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.
- (2) Without prejudice to the generality of sub-paragraph (1) above, 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.

*Duty to secure 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 he found them.

*Compensation*

- 6       (1) Where any person exercises any power conferred by section 108(4)(a) or (b) or (5) of this Act, it shall be the duty of the enforcing authority under whose authorisation he acts to make full compensation to any person who has sustained loss or damage by reason of—
- (a) the exercise by the designated person of that power; or
  - (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 5 above.
- (2) Compensation shall not be payable by virtue of sub-paragraph (1) above in respect of any loss or damage if the loss or damage—
- (a) is attributable to the default of the person who sustained it; or
  - (b) is loss or damage in respect of which compensation is payable by virtue of any other provision of the pollution control enactments.
- (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 arbitration of a single arbitrator or, in Scotland, arbiter appointed by agreement between the enforcing authority in question and the person who claims to have sustained the loss or damage or, in default of agreement, by the Secretary of State.
- (4) A designated person 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 act was done in good faith and that there were reasonable grounds for doing it.