

SCHEDULE 8

Regulation 35

SUPPLEMENTAL PROVISIONS WITH REGARD TO POWERS OF ENTRY

Issue of warrants

- 1.—(1) If it is shown to the satisfaction of a justice of the peace on complaint on oath—
- (a) that there are reasonable grounds for the exercise in relation to any premises of a relevant power conferred by regulation 35; 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 an authorised person 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 35, applies, a justice of the peace 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 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.

Manner of exercise of powers

2. An authorised person shall produce evidence of his designation and other authority before he exercises the power.

Information obtained to be admissible in evidence

3.—(1) Subject to paragraph (5) of regulation 35, information obtained in consequence of the exercise of 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), 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

4. 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.

Compensations

5.—(1) Where an authorised person exercises any power conferred by sub-paragraph 2(a) of regulation 35, it shall be the duty of the Department to make full compensation to any person who has sustained loss or damage by reason of—

- (a) the exercise by the authorised person of that power; or
- (b) the performance of, or failure of the authorised person to perform, the duty imposed by paragraph (4).

(2) Compensation shall not be payable by virtue of sub-paragraph (1) 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 Order.

(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 and determined by the Lands Tribunal; and Articles 4 and 5 of the Land Compensation (Northern Ireland) Order 1982⁽¹⁾ shall apply to any such determination.

(4) An authorised 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.

Relevant power

6. In this Schedule “relevant power” means a power conferred by regulation 35 including a power exercisable by virtue of a warrant under this Schedule.

(1) [S.I. 1982/712 \(N.I. 9\)](#)