SCHEDULES

SCHEDULE 4

Article 72.

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Interpretation

1. In this Schedule "relevant power" means a power conferred by Article 72, including a power exercisable by virtue of a warrant under this Schedule.

Issue of warrants

2.—(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; 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 (4) of Article 72 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.

Information obtained to be admissible in evidence

3.—(1) Subject to Article 72(9), 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), 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. An authorised 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

5.—(1) Where an authorised person exercises any power conferred by Article 72(2)(a) or (b) or (3), the enforcing authority under whose authorisation he acts shall 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 the 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 under any other provision of the pollution control statutory provisions.

(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 shall apply to any such determination.

Status:
Point in time view as at 01/01/2006.

Changes to legislation:
The Waste and Contaminated Land (Northern Ireland) Order 1997, SCHEDULE 4 is up to date with all changes known to be in force on or before 22 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.