

## SCHEDULE 4

Regulation 6(1)(c)

### ENFORCEMENT POWERS AND RELATED OFFENCES IN NORTHERN IRELAND

#### PART 1

##### POWERS OF ENTRY

1. An authorised person may, on production (if so required) of his authority, exercise any of the powers specified in paragraph 2 for the purpose of determining whether any provision of these Regulations is being, or has been, complied with.

2. The powers of an authorised person are—

- (a) to enter at any reasonable time any premises which that person has reason to believe it is necessary to enter;
- (b) on entering any premises by virtue of sub-paragraph (a), to take with that person—
  - (i) any other person duly authorised by the enforcing authority and, if the authorised person has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
  - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
- (c) to make such examination and investigation as may in any circumstances be necessary;
- (d) as regards any premises which the authorised person has power to enter, to direct that those premises or any part of them, or anything in them, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (e) to take such measurements and photographs and make such recordings as the authorised person considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
- (f) to take samples, or cause samples to be taken, of any relevant product found in or on any premises which the authorised person has power to enter, and of the air, in, on, or in the vicinity of, the premises;
- (g) to require any person whom the authorised person has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than anyone nominated by that person to be present and any persons whom the authorised person may allow to be present) such questions as the authorised person thinks fit to ask and to sign a declaration of the truth of his answers;
- (h) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which it is necessary for the authorised person to see for the purposes of an examination or investigation under sub-paragraph (c), and to inspect and take copies of, or of any entry in, the records;
- (i) to require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the authorised person to exercise any of the powers conferred on him by paragraph 1 and this paragraph;

3. The powers which under paragraphs 1 and 2 are conferred in relation to any premises for the purpose of enabling an enforcing authority to determine whether any provision of these Regulations

is being, or has been, complied with shall include power, in order to obtain the information on which that determination may be made, to install, keep or maintain monitoring and other apparatus there.

4. In any case where it is proposed to enter any premises used for residential purposes, any entry by virtue of this Part shall only be effected—

- (a) after the expiration of at least seven days' notice of the proposed entry given to a person who appears to the authorised person in question to be in occupation of the premises in question, and
- (b) with the consent of a person who is in occupation of those premises;

5. No answer given by a person in pursuance of a requirement imposed under paragraph 2(g) shall be admissible in evidence against that person in any proceedings.

6. Nothing in this Part shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court.

7. Nothing in section 98 of the Local Government Act (Northern Ireland) 1972(1) shall apply to powers conferred on an authorised person by a district council under this Part.

## PART 2

### OFFENCES

8. It is an offence for a person intentionally to obstruct an authorised person in the exercise of his powers or duties.

9. It is an offence for a person, without reasonable excuse—

- (a) to fail to comply with any requirement imposed under Part 1;
- (b) to fail or refuse to provide facilities or assistance or any information or to permit any inspection reasonably required by an authorised person in the exercise of his powers or duties under that Part; or
- (c) to prevent any other person from appearing before an authorised person, or answering any question to which an authorised person may require an answer under that Part.

10. A person guilty of an offence under paragraph 8 or 9 shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## PART 3

### DEFINITIONS

11. In this Schedule—

“authorised person” means a person who is authorised in writing by an enforcing authority for the purposes of these Regulations;

“constable” has the meaning given to it by section 43A of the Interpretation Act (Northern Ireland) 1954(2);

“enforcing authority” means a district council in Northern Ireland;

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(1) 1972 c.9 (N.I.)

(2) 1954 c.33 (N.I.)

“mobile plant” means plant which is designed to move or to be moved whether on roads or otherwise;

“premises” includes any land, vehicle, vessel or mobile plant.