

SCHEDULES

SCHEDULE 20

Section 173.

SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

Notice of entry

- 1 (1) Without prejudice to any power exercisable by virtue of a warrant under this Schedule, no person shall make an entry into any premises or vessel by virtue of any power conferred by sections 169 to 172 of this Act except—
- (a) in an emergency; or
 - (b) at a reasonable time and after the required notice of the intended entry has been given to the occupier of the premises or vessel.
- (2) For the purposes of this paragraph the required notice is seven days' notice; but such notice shall not be required in the case of an exercise of a power conferred by section 169 or 172 above, except where the premises in question are residential premises, the vessel in question is used for residential purposes or the entry in question is to be with heavy equipment.
- (3) For the purposes of the application of this paragraph to the power conferred by section 170 of this Act the reference in sub-paragraph (1) above to an emergency—
- (a) in relation to any entry to premises for the purposes of, or for purposes connected with, the exercise or proposed exercise of any power in relation to a street, includes a reference to any circumstances requiring the carrying out of emergency works within the meaning of Part III of the New Roads and Street Works Act 1991; and
 - (b) in relation to any other entry to premises, includes a reference to any danger to property and to any interruption of a supply of water provided to any premises by any person and to any interruption of the provision of sewerage services to any premises.
- (4) Until the coming into force of section 52 of the New Roads and Street Works Act 1991, sub-paragraph (3) above shall have effect as if the reference to Part III of that Act were a reference to the Public Utilities Street Works Act 1950; but nothing in this sub-paragraph shall be taken to prejudice the power of the Secretary of State under that Act of 1991 to make an order bringing that section 52 into force on different days for different purposes (including the purposes of this paragraph).

Warrant to exercise power

- 2 (1) If it is shown to the satisfaction of a justice of the peace on sworn information in writing—
- (a) that there are reasonable grounds for the exercise in relation to any premises or vessel of a power conferred by sections 169 to 172 of this Act; and
 - (b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises or that vessel,

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the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the power in relation to those premises, or that vessel, 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 or vessel has been refused;
 - (b) that such a refusal is reasonably apprehended;
 - (c) that the premises are unoccupied or the vessel is unoccupied;
 - (d) that the occupier is temporarily absent from the premises or vessel;
 - (e) that the case is one of urgency; or
 - (f) that an application for admission to the premises or vessel would defeat the object of the proposed entry.
- (3) 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 or vessel has been refused, or that a refusal is reasonably apprehended, unless he is also satisfied—
- (a) that notice of the intention to apply for the warrant has been given to the occupier of the premises or vessel; or
 - (b) that the giving of such a notice would defeat the object of the proposed entry.
- (4) For the purposes of the application of this Schedule to the powers conferred by section 171 of this Act in a case to which subsection (4) of that section applies, a justice of the peace shall not issue a warrant under this Schedule unless he is satisfied that the Secretary of State has given his authorisation for the purposes of that subsection in relation to that case.
- (5) 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 any power to which this Schedule applies shall produce evidence of his designation and other authority before he exercises the power.

Supplementary powers of person making entry etc.

- 4 A person authorised to enter any premises or vessel by virtue of any power to which this Schedule applies shall be entitled, subject in the case of a power exercisable under a warrant to the terms of the warrant, to take with him on to the premises or vessel such other persons and such equipment as may be necessary.

Duty to secure premises

- 5 A person who enters any premises or vessel in the exercise of any power to which this Schedule applies shall leave the premises or vessel as effectually secured against trespassers as he found them.

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Compensation

- 6 (1) Where any person exercises any power to which this Schedule applies, it shall be the duty of the relevant authority 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 of any power to take any person or equipment with him when entering the premises or vessel in relation to which the power is exercised; 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 this Act.
- (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 appointed by agreement between the relevant authority and the person who claims to have sustained the loss or damage or, in default of agreement—
- (a) by the President of the Lands Tribunal where the relevant authority is one of the Ministers; and
 - (b) by one of the Ministers, where the Authority is the relevant authority.

Obstruction of person exercising power

- 7 A person who intentionally obstructs another person acting in the exercise of any power to which this Schedule applies shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Interpretation

- 8 (1) In this Schedule—
- “relevant authority”, in relation to a power to which this Schedule applies, means one of the Ministers or the Authority, according to who is entitled, by virtue of the provision by which the power is conferred or, as the case may be, the warrant, to designate the person by whom the power may be exercised; and
 - “sewerage services” has the same meaning as in the Water Industry Act 1991.
- (2) References in this Schedule to a power to which this Schedule applies are references to any power conferred by Chapter II of Part VI of this Act, including a power exercisable by virtue of a warrant under this Schedule.
- (3) For the purposes of paragraphs 5 and 6 above a person enters any premises or vessel by virtue of a power to which this Schedule applies notwithstanding that he has failed (whether by virtue of the waiver of the requirement by the occupier of the premises or otherwise) to comply with—
- (a) any requirement to enter those premises at a reasonable time or after giving notice of his intended entry; or
 - (b) the requirement imposed by paragraph 3 above.