



## 2010 CHAPTER 2

### *Enforcement*

#### **Powers of entry**

**38.—**(1) The powers conferred on an authorised person by this section are exercisable for the purpose of ascertaining whether any provisions of, or made under, this Act are being complied with.

(2) An authorised person shall have the power to enter and inspect any vehicle used for the carriage of goods by road; and for that purpose the authorised person may stop and detain the vehicle during such time as is required for the inspection.

(3) Subject to subsection (4), an authorised person shall at any time which is reasonable having regard to the circumstances have the power to enter and inspect any premises—

- (a) in or on which the authorised person has reason to believe that a vehicle used for the carriage of goods by road is kept;
- (b) which the authorised person has reason to believe are used or intended to be used—
  - (i) in connection with the carriage of goods by road; or
  - (ii) in connection with the maintenance of vehicles used for the carriage of goods by road.

(4) An authorised person may not under subsection (3) enter premises which are occupied as a private dwelling unless under the authority of a warrant issued under subsection (5)(c).

(5) Where a lay magistrate is satisfied by complaint on oath—

- (a) that an authorised person has been refused admission to any premises which the authorised person has a right to enter under subsection (3), or

that such a refusal is apprehended, and that notice of the intention to apply for the warrant has been given to the occupier;

- (b) that an application for admission to the premises, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied or that the owner is temporarily absent; or
- (c) that admission to the premises is reasonably required for the purposes specified in the complaint and that an authorised person would, apart from subsection (4), be entitled for that purpose to exercise in respect of the premises a power of entry under subsection (3);

the lay magistrate may issue a warrant authorising the authorised person to enter the premises.

(6) An authorised person entering any premises under this section may be accompanied by such other persons as appear to the authorised person to be necessary.

(7) A warrant issued under subsection (5) shall continue in force until the purpose for which entry is required has been satisfied.

(8) Where an authorised person exercises a power of entry on any premises by virtue of this section, the authorised person shall ensure that the premises are left no less secure by reason of the entry, and the Department shall make good or pay compensation for any damage to property caused by the authorised person in entering the premises, in carrying out any inspection or in making the premises secure.

(9) Any question of disputed compensation shall be referred to and determined by the Lands Tribunal.

(10) Where an authorised person exercises a power of entry under this section, the authorised person may seize and remove anything found on the vehicle or premises which the authorised person has reasonable cause to believe may be required as evidence in any proceedings for an offence under this Act.

(11) For the purposes of subsection (10) the power to seize includes power to detach from a vehicle.