

SCHEDULE 2

Application of Part 1 of the 1982 Act

Modification of section 5 - warrants authorising entry

1. After section 5 (rights of entry and inspection), insert—

“Warrants authorising entry

5A.—(1) A sheriff or a justice of the peace may by warrant authorise any person entitled to exercise a right conferred by section 5(1) to do so, if necessary using reasonable force, in accordance with the warrant.

(2) A warrant may be granted under subsection (1) only if the sheriff or justice is satisfied, by evidence on oath—

- (a) that there are reasonable grounds for the exercise of the right in relation to the premises concerned, and
- (b) that—
 - (i) the exercise of the right in relation to the premises has been refused,
 - (ii) such a refusal is reasonably expected,
 - (iii) the land is, or premises are, unoccupied,
 - (iv) the occupier is temporarily absent,
 - (v) the case is one of urgency, or
 - (vi) that an application for admission would defeat the object of the proposed entry.

(3) A sheriff or justice may not be satisfied that a condition specified in any of heads (ii) to (iv) of subsection (2)(b) is met unless the sheriff or justice is also satisfied that notice of intention to apply for a warrant has been given to the occupier of the premises concerned.

(4) The reference to the occupier in subsection (3) is to be read as including the applicant or licence holder, as the case may be, any known agent of the applicant or licence holder, and a person for the time being in charge of any premises.”.