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## SCHEDULES

### SCHEDULE 18 **E+W+S**

Section 108.

#### SUPPLEMENTAL PROVISIONS WITH RESPECT TO POWERS OF ENTRY

##### **Modifications etc. (not altering text)**

- C1** Sch. 18 applied (with modifications) (2.8.2004) by [The Justification of Practices Involving Ionising Radiation Regulations 2004 \(S.I. 2004/1769\)](#), reg. 1, **Sch. 1 para. 3** (with reg. 2)
- C2** Sch. 18 applied (with modifications) (E.W.) (1.4.2018) by [The Control of Mercury \(Enforcement\) Regulations 2017 \(S.I. 2017/1200\)](#), regs. 2(2), **9(4)(5)** (with reg. 1(2))
- C3** Sch. 18 applied (with modifications) (S.) (1.4.2018) by [The Control of Mercury \(Enforcement\) Regulations 2017 \(S.I. 2017/1200\)](#), regs. 2(2), **27(3)** (with reg. 1(2))

##### *Interpretation*

- 1 (1) In this Schedule—
  - “designated person” means an authorised person, within the meaning of section 108 of this Act and includes a person designated by virtue of paragraph 2 below;
  - “relevant power” means a power conferred by section 108 of this Act, including a power exercisable by virtue of a warrant under this Schedule.
- (2) Expressions used in this Schedule and in section 108 of this Act have the same meaning in this Schedule as they have in that section.

##### *Issue of warrants*

- 2 (1) If it is shown to the satisfaction of a justice of the peace or, in Scotland, the sheriff or a justice of the peace, on sworn information in writing—
  - (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) below is fulfilled in relation to those premises,the justice or sheriff may by warrant authorise an enforcing authority to designate a person who shall be authorised 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) above 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

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- (e) that an application for admission to the premises would defeat the object of the proposed entry.
- [<sup>F1</sup>(2A) A justice of the peace may by warrant authorise an English or Welsh authorised person, designated for the purpose by the person who authorised them, to exercise the powers in section 108(4)(ka) in accordance with the warrant and, if need be, by force.
- (2B) The justice may do so only if satisfied that there are reasonable grounds for believing that—
- (a) there is material on or accessible from the premises in question which is likely to be of substantial value (by itself or together with other material) to an examination or investigation under section 108(4)(c), and
- (b) it is impracticable to communicate with a person entitled to grant access to it, or access to it is unlikely to be granted unless a warrant is produced.]
- (3) <sup>F2</sup>...
- (4) 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 a relevant power shall [<sup>F3</sup>, if so required,] produce evidence of his [<sup>F4</sup>designation and other] authority before he exercises the power.

**Textual Amendments**

- F3** Words in Sch. 18 para. 3 inserted (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 46(4)(b)(i)**, 61(2); S.S.I. 2014/160, art. 2(1)(2) and words in Sch. 18 para. 3 inserted (E.W.) (9.1.2022) by [Environment Act 2021 \(c. 30\)](#), s. 147(2)(h), **Sch. 10 para. 6(3)** (with s. 144)
- F4** Words in Sch. 18 para. 3 repealed (S.) (30.6.2014) by [Regulatory Reform \(Scotland\) Act 2014 \(asp 3\)](#), **ss. 46(4)(b)(ii)**, 61(2); S.S.I. 2014/160, art. 2(1)(2)

**Modifications etc. (not altering text)**

- C5** Sch. 18 paras. 2-6 applied (with modifications) (16.12.2005) by [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2005 \(S.I. 2005/3468\)](#), regs. 1(1), **35(5)**
- C6** Sch. 18 paras. 2-6 applied (with modifications) (16.3.2007) by [The Producer Responsibility Obligations \(Packaging Waste\) Regulations 2007 \(S.I. 2007/871\)](#), regs. 1(1), **35(5)**
- C7** Sch. 18 paras. 2-6 applied (with modifications) (E.) (28.2.2023) by [The Packaging Waste \(Data Reporting\) \(England\) Regulations 2023 \(S.I. 2023/19\)](#), regs. 1, **26(6)**
- C8** Sch. 18 paras. 2-6 applied (with modifications) (6.3.1997) by [S.I. 1997/648](#), **reg. 28(5)(6)**
- C9** Sch. 18 paras. 2-6 applied (with modifications) (S.) (28.2.2023) by [The Packaging Waste \(Data Reporting\) \(Scotland\) Regulations 2023 \(S.S.I. 2023/7\)](#), regs. 1, **26(6)**

*Information obtained to be admissible in evidence*

- 4 (1) Subject to section 108(12) of this Act, 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) above, information obtained by means of monitoring or other apparatus installed on any premises in the exercise

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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.

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- C10 Sch. 18 paras. 2-6 applied (with modifications) (6.3.1997) by [S.I. 1997/648](#), **reg. 28(5)(6)**

*Duty to secure premises*

- 5 A 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.

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- C11 Sch. 18 paras. 2-6 applied (with modifications) (6.3.1997) by [S.I. 1997/648](#), **reg. 28(5)(6)**

*Compensation*

- 6 (1) Where any person exercises any power conferred by section 108(4)(a) or (b) or (5) of this Act, it shall be the duty of the enforcing authority under whose authorisation he acts 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
  - (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 the pollution control enactments.

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- (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 or, in Scotland, arbiter appointed by agreement between the enforcing authority in question and the person who claims to have sustained the loss or damage or, in default of agreement, by the Secretary of State.
- (4) A designated person shall not be liable in any civil or criminal proceedings for anything done in the purported exercise of any relevant power if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

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