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Changes to legislation: Water Industry Act 1991, SCHEDULE 6 is up to date with all changes known to be in force on or before 06 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Sections 71 to 84 & 162 to 172.

SUPPLEMENTAL PROVISIONS RELATING TO RIGHTS OF ENTRY

PART I

RIGHTS REQUIRING NOTICE FOR ENTRY TO NON-BUSINESS PREMISES

Notice of entry

- 1 (1) Where this Part of this Schedule applies to any right of entry conferred by a provision of this Act, admission to any premises which are not business premises shall not be demanded as of right by virtue of that provision, unless twenty-four hours notice of the intended entry has been given to the occupier of the premises.
- (2) In this paragraph “business premises” means—
- (a) any factory; or
 - (b) any place in which persons are employed otherwise than in domestic service;
- and in this sub-paragraph “factory” has the same meaning as in the ^{M1}Factories Act 1961.

Marginal Citations

M1 1961 c. 34.

Warrants to exercise right

- 2 (1) Subject to sub-paragraph (3) below, if it is shown to the satisfaction of a justice of the peace, on sworn information in writing—
- (a) that any one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to any premises which a person is entitled to enter by virtue of a right of entry to which this Part of this Schedule applies; and
 - (b) that there is reasonable ground for entry to the premises for any purpose for which the right is exercisable,
- the justice may by a warrant under his hand authorise that person to enter the premises, if need be by force.
- (2) The conditions mentioned in sub-paragraph (1) above are—
- (a) that admission to the premises has been refused to the person having the right to enter them;
 - (b) that such refusal is apprehended;
 - (c) that the premises are unoccupied or the occupier is temporarily absent;
 - (d) that the case is one of urgency;

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- (e) that an application for admission would defeat the object of the entry.
- (3) A warrant under this Part of this Schedule shall not be issued by a justice of the peace in a case in which he is satisfied that the condition mentioned in paragraph (a) or (b) of sub-paragraph (2) above is fulfilled unless he is also satisfied—
 - (a) that notice of the intention to apply for a warrant has been given to the occupier;
 - (b) that a condition mentioned in either of paragraphs (c) and (d) of that sub-paragraph is also fulfilled in relation to the premises; or
 - (c) that the giving of such notice as is mentioned in paragraph (a) above would defeat the object of the entry.
- (4) Every warrant under this Part of this Schedule shall continue in force until the purpose for which the entry is necessary has been fulfilled.
- (5) A person leaving any unoccupied premises which he has entered by virtue of a warrant under this Part of this Schedule shall leave them as effectually secured against trespassers as he found them.

Supplementary power of person making entry

- 3 Any person entitled to enter any premises by virtue of a right to which this Part of this Schedule applies, or of a warrant under this Part of this Schedule, may take with him such other persons as may be necessary.

Obstruction of person exercising right

- 4 Any person who wilfully obstructs any person upon whom a right of entry has been conferred by virtue of—
 - (a) any provision of this Act relating to a right of entry to which this Part of this Schedule applies; or
 - (b) a warrant under this Part of this Schedule,
 shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 1 on the standard scale.

Duty of persons exercising rights to maintain confidentiality

- 5 (1) Without prejudice to section 206 of this Act and subject to sub-paragraphs (2) and (3) below, any person who is admitted to any premises in compliance—
 - (a) with any provision of this Act relating to a right of entry to which this Part of this Schedule applies; or
 - (b) with a warrant under this Part of this Schedule,
 shall be guilty of an offence under this paragraph if he discloses to any person any information obtained by him there with regard to any manufacturing process or trade secret.
- (2) A person shall not be guilty of an offence under this paragraph in respect of any disclosure made in the performance of his duty.
- (3) For the purposes of the application of this Part of this Schedule to the right conferred by section 171 of this Act, the reference to premises in subsection (1) above shall have effect as a reference only to business premises, within the meaning of paragraph 1 above.

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- (4) A person who is guilty of an offence under this paragraph, other than such a person as is mentioned in sub-paragraph (5) below, shall be liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding three months or to a fine or to both.
- (5) A person who is guilty of an offence under this paragraph by virtue of the application of this Part of this Schedule to the rights conferred by section 171 of this Act shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale or to both.

PART II

OTHER RIGHTS OF ENTRY AND RELATED POWERS

Notice of entry

- 6 (1) Without prejudice to any power exercisable by virtue of a warrant under this Part of this Schedule, no person shall make an entry into any premises by virtue of any right or power to which this Part of this Schedule applies 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.
- (2) For the purposes of this paragraph the required notice is—
- (a) in the case of the rights and powers conferred by virtue of any of sections 74(4), 84(2) and (3), 86(4) and 170(1)(c) and (3) of this Act, twenty-four hours' notice; and
 - (b) in any other case, seven days' notice.
- (3) For the purposes of the application of this Part of this Schedule to any right or power conferred by section 168 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 ^{M2}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)(a) above shall have effect as if the reference to Part III of that Act were a reference to the ^{M3}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).

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- (5) For the purposes of the application of this Part of this Schedule to the rights and other powers conferred by section 172 of this Act sub-paragraph (1) above shall have effect as if the power in an emergency to make an entry to any premises otherwise than at a reasonable time and after the required notice were omitted.

Marginal Citations

- M2** 1991 c. 22.
M3 1950 c. 39.

Warrant to exercise right or power

- 7 (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 of a right or power to which this Part of this Schedule applies; and
 - (b) that one or more of the conditions specified in sub-paragraph (2) below is fulfilled in relation to those premises,
- the justice may by warrant authorise the relevant authority to designate a person who shall be authorised to exercise the right or 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 right or 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;
 - (e) that the case is one of urgency; or
 - (f) that an application for admission to the premises would defeat the object of the proposed entry.
- (3) A justice of the peace shall not issue a warrant under this Part of this Schedule by virtue only of being satisfied that the exercise of a right or power in relation to any premises 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
 - (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 Part of this Schedule to the rights and powers conferred by section 169 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 Part of 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 Part of this Schedule shall continue in force until the purposes for which the warrant was issued have been fulfilled.

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Modifications etc. (not altering text)

- C1** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C2** Sch. 6 Pt. II para. 7 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**
Sch. 6 Pt. II para. 7 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**
Sch. 6 Pt. II para. 7 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**
Sch. 6 Pt. II para. 7 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

Manner of exercise of right or power

- 8 A person designated as the person who may exercise any right or power to which this Part of this Schedule applies shall produce evidence of his designation and other authority before he exercises the right or power.

Modifications etc. (not altering text)

- C3** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C4** Sch. 6 Pt. II para. 8 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**
Sch. 6 Pt. II para. 8 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**
Sch. 6 Pt. II para. 8 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**
Sch. 6 Pt. II para. 8 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

Supplementary powers of person making entry etc.

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

Modifications etc. (not altering text)

- C5** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C6** Sch. 6 Pt. II para. 9 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**
Sch. 6 Pt. II para. 9 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**
Sch. 6 Pt. II para. 9 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**
Sch. 6 Pt. II para. 9 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

Duty to secure premises

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

Modifications etc. (not altering text)

- C7** Sch. 6 paras. 7-10 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}

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- C8** Sch. 6 Pt. II para. 10 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**
 Sch. 6 Pt. II para. 10 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**
 Sch. 6 Pt. II para. 10 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**
 Sch. 6 Pt. II para. 10 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

Compensation

- 11 (1) Where any person exercises any right or power to which this Part of 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 right or power or of any power to take any person or equipment with him when entering the premises in relation to which the right or power is exercised; or
 - (b) the performance of, or failure of the designated person to perform, the duty imposed by paragraph 10 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 the Secretary of State; and
 - (b) by the Secretary of State, in any other case.

Obstruction of person exercising right or power

- 12 A person who intentionally obstructs another person acting in the exercise of any right or power to which this Part of 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.

Modifications etc. (not altering text)

- C9** Sch. 6 para. 12 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C10** Sch. 6 Pt. II para. 12 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**
 Sch. 6 Pt. II para. 12 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**
 Sch. 6 Pt. II para. 12 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**
 Sch. 6 Pt. II para. 12 applied (*temp.* from 4.4.1996 to 3.10.1996) by S.I. 1996/1079, **art. 2(5)**

Interpretation of Part II

- 13 (1) In this Part of this Schedule “relevant authority”, in relation to a right or power to which this Part of this Schedule applies, means the person who, by virtue of—

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- (a) the provision by which the right or power is conferred; or
 - (b) (except in paragraph 7 above) the warrant,
- is entitled to designate the person by whom the right or power may be exercised.
- (2) References in this Part of this Schedule, except in paragraph 7 above, to a right or power to which this Part of this Schedule applies include references to a right or power exercisable by virtue of a warrant under this Part of this Schedule.
- (3) For the purposes of paragraphs 10 and 11 above a person enters any premises by virtue of a right or power to which this Part of 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 8 above.

Modifications etc. (not altering text)

- C11** Sch. 6 para. 13 applied (23.12.2003) by The United Utilities Water plc (Ullswater) (Drought) Order 2003 (S.I. 2003/3341), {art. 2}
- C12** Sch. 6 Pt. II para. 13 applied (*temp.* from 3.10.1995 to 29.2.1996) by S.I. 1995/2585, **art. 2(1)(5)**
 Sch. 6 Pt. II para. 13 applied (6.12.1995) by S.I. 1995/3179, **art. 2(5)**
 Sch. 6 Pt. II para. 13 applied (17.2.1996) by S.I. 1996/367, **art. 2(4)**
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