



2008 CHAPTER 4

PART 5

ENFORCEMENT

Powers of entry

38.—(1) Subject to subsection (2), an authorised officer or a constable may enter at all reasonable times any premises specified as an operating centre in an operator’s licence and inspect those premises and any equipment and any other item found there, for the purpose of ascertaining—

- (a) whether the conditions of the operator’s licence are being complied with;
or
- (b) whether any other provisions of or made under this Act are being complied with.

(2) An authorised officer or a constable may not under subsection (1) enter premises which are occupied as a private dwelling unless under the authority of a warrant issued under subsection (5).

(3) Subject to subsection (4), an authorised officer or a constable may enter at all reasonable times any premises and inspect those premises and any equipment and any other item found there if the officer or constable has reasonable grounds for suspecting that a person is operating a taxi service at or from those premises without an operator’s licence.

(4) An authorised officer or a constable may not enter premises under subsection (3) unless under the authority of a warrant issued under subsection (5).

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

- (a) that admission to the premises is reasonably required for the purposes specified in the complaint; and
- (b) that an authorised officer or a constable would, apart from subsection (2) or (4) be entitled for that purpose to exercise in respect of the premises a power of entry under subsection (1) or (3) as the case may be,

the lay magistrate may issue a warrant under the lay magistrate's hand authorising that person to enter the premises.

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

(7) An authorised officer or a constable exercising a power of entry by virtue of this section shall, if so required, produce evidence of the officer's or constable's authorisation and any warrant under subsection (5)—

- (a) before entering the premises; or
- (b) at any time before leaving the premises.

(8) Where an authorised officer or a constable exercises a power of entry by virtue of this section, the officer or constable may seize and remove any equipment or other items found on the premises which the officer or constable has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under section 1 or 3.

(9) The powers conferred on an authorised officer or a constable by subsection (8) are exercisable only at a time when regulations under section 42 are in operation.

(10) Where an authorised officer or a constable exercises a power of entry by virtue of this section, the officer or constable 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 officer or constable in entering the premises, in carrying out any inspection or in making the premises secure.

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

(12) For the purposes of a power of entry under subsection (3), "premises" also includes vehicles.