

*Changes to legislation: There are currently no known outstanding effects for the Animal Health and Welfare (Scotland) Act 2006, SCHEDULE 1. (See end of Document for details)*

## SCHEDULE 1

(introduced by section 49(7))

### POWERS OF INSPECTORS AND CONSTABLES FOR PART 2

#### *Entry and inspection in connection with [<sup>F1</sup>an obligation under [<sup>F2</sup>assimilated] law]*

##### Textual Amendments

- F1** Words in sch. 1 para. 1 cross-heading substituted (31.12.2020) by The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/34), regs. 1, 2(2)(a); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in sch. 1 para. 1 cross-heading substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), sch. 1 para. 6(a)

- 1 (1) An inspector may enter and inspect any premises for the purpose of ascertaining compliance with any regulations made under Part 2 which implement [<sup>F3</sup>an][<sup>F4</sup>obligation under [<sup>F5</sup>assimilated] law].
- (2) Sub-paragraph (1) does not apply in relation to domestic premises.

##### Textual Amendments

- F3** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 3, 6 (with art. 3(2)(3)4(2)6(4)6(5))
- F4** Words in sch. 1 para. 1(1) substituted (31.12.2020) by The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/34), regs. 1, 2(2)(b); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in sch. 1 para. 1(1) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), sch. 1 para. 6(b)

##### Commencement Information

- I1** Sch. 1 para. 1 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

#### *Entry and search where animals in distress*

- 2 (1) A sheriff or justice of the peace may grant a warrant under this sub-paragraph if satisfied—
- (a) that there are reasonable grounds for believing that there is at premises a protected animal which—
    - (i) is suffering, or
    - (ii) is likely to suffer if its circumstances do not change, and
  - (b) that paragraph 5 is complied with in relation to the premises.
- (2) A warrant under sub-paragraph (1) authorises an inspector or a constable to enter and search the premises for the purpose of exercising any power conferred by sections 32 and 35.
- (3) An inspector or a constable may—
- (a) enter and search premises for the purpose of exercising any power conferred by sections 32 and 35, and

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- (b) do so without a warrant under sub-paragraph (1),  
if it appears that immediate entry is appropriate in the interests of an animal.
- (4) Sub-paragraph (3) does not apply in relation to domestic premises.

**Commencement Information**

**I2** Sch. 1 para. 2 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

*Entry and inspection in connection with offences*

- 3 (1) An inspector may, if there are reasonable grounds for believing that an offence under Part 2 has been committed at premises, enter and inspect the premises for the purpose of ascertaining whether or not an offence under that Part has been committed there.
- (2) Sub-paragraph (1) does not apply in relation to domestic premises.

**Commencement Information**

**I3** Sch. 1 para. 3 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

*Entry and search etc. in connection with offences*

- 4 (1) A sheriff or justice of the peace may grant a warrant under this sub-paragraph if satisfied—
  - (a) that there are reasonable grounds for believing—
    - (i) that a relevant offence has been committed at premises, or
    - (ii) that evidence of the commission of, or participation in, a relevant offence is to be found at premises, and
  - (b) that paragraph 5 is complied with in relation to the premises.
- (2) A warrant under sub-paragraph (1) authorises an inspector or a constable to—
  - (a) enter the premises, and
  - (b) search for, examine and seize any animal (including the carcase of an animal), equipment, document or other thing tending to provide evidence of the commission of, or participation in, a relevant offence.
- (3) An inspector or a constable may—
  - (a) enter premises and search for, examine and seize any animal (including the carcase of an animal), equipment, document or other thing tending to provide evidence of the commission of, or participation in, a relevant offence, and
  - (b) do so without a warrant under sub-paragraph (1),  
if it appears that delay would frustrate the purpose for which the search is to be carried out.
- (4) Sub-paragraph (3) does not apply in relation to domestic premises.
- (5) In this paragraph, a “relevant offence” is—
  - (a) an offence under sections 19 to 23,
  - (b) an offence under section 24,
  - (c) an offence under section 29,

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- (d) an offence under section 40(11).

**Commencement Information**

**I4** Sch. 1 para. 4 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

*Conditions for granting warrants*

- 5 (1) This paragraph is complied with in relation to premises if either of the conditions specified in sub-paragraphs (2) and (3) is met.
- (2) The condition is—
- (a) that—
- (i) admission to the premises has been refused, or
- (ii) such a refusal may reasonably be expected, and
- (b) that—
- (i) notice of the intention to seek a warrant has been given to the occupier of the premises, or
- (ii) the giving of such notice would frustrate the purpose for which the warrant is sought.
- (3) The condition is that the premises are unoccupied or the occupier is temporarily absent.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

*Stopping and detaining vehicles etc.*

- 6 (1) A constable in uniform may stop and detain a vehicle or vessel for the purpose of the exercise of a relevant power.
- (2) An inspector, if accompanied by a constable in uniform, may stop and detain a vehicle or vessel for the purpose of the exercise of a relevant power.
- (3) A vehicle or vessel may be detained under sub-paragraph (1) or (2) for as long as is reasonably required for the exercise of the power concerned.
- (4) The power concerned may be exercised either at the place where the vehicle or vessel was first detained or nearby.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

*Entry and search etc.: supplementary*

- 7 A warrant granted under a provision of this schedule remains in force for one month beginning with the date on which it was granted.

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**Commencement Information**

**I7** Sch. 1 para. 7 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 8 (1) A relevant power is exercisable only at a reasonable time.
- (2) Sub-paragraph (1) does not apply if it appears that exercise of the power at a reasonable time would frustrate the purpose of exercising the power.

**Commencement Information**

**I8** Sch. 1 para. 8 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 9 (1) A relevant power is exercisable, if necessary, by using reasonable force.
- (2) Sub-paragraph (1) does not apply to a power conferred by paragraph 1 or 3.

**Commencement Information**

**I9** Sch. 1 para. 9 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 10 A person exercising a relevant power must, if required, produce evidence of the person's authority.

**Commencement Information**

**I10** Sch. 1 para. 10 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 11 (1) A relevant power includes power to take onto premises—
- (a) such persons for assistance, and
  - (b) such equipment,
- as are required for the purpose of the exercise of the power.
- (2) A relevant power includes power to secure the taking of any of the steps mentioned in sub-paragraph (3).
- (3) Those steps are—
- (a) carrying out tests on, and taking samples from—
    - (i) an animal (including a carcase of an animal),
    - (ii) any equipment, substance or other thing,
  - (b) using a mark, microchip or another method of identifying an animal.

**Commencement Information**

**I11** Sch. 1 para. 11 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 12 (1) A qualifying person must—
- (a) comply with any reasonable direction made by a person exercising a relevant power, and

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- (b) in particular, give that person such information and assistance as that person reasonably requires.

(2) In sub-paragraph (1), a “qualifying person” is—

- (a) the occupier of premises in relation to which a relevant power is being exercised,
- (b) a person who appears to be responsible for animals at the premises,
- (c) a person who appears to be under the direction or control of a person referred to in paragraph (a) or (b).

**Commencement Information**

**I12** Sch. 1 para. 12 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

- 13 A person exercising a relevant power in relation to unoccupied premises must leave the premises as effectively secured against entry as the person found them.

**Commencement Information**

**I13** Sch. 1 para. 13 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

*Offences of obstruction*

- 14 (1) A person commits an offence if, without reasonable excuse, the person contravenes paragraph 12(1).
- (2) A person commits an offence if the person intentionally obstructs a person in the exercise of a relevant power.

**Commencement Information**

**I14** Sch. 1 para. 14 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

- 15 (1) A person commits an offence if the person intentionally obstructs a person in the exercise of a power conferred by—
- (a) section 32,
  - (b) an order under section 34(1),
  - (c) section 35.
- (2) A person commits an offence if the person intentionally obstructs a person in the carrying out of—
- (a) a deprivation order,
  - (b) a seizure order,
  - (c) an interim order under section 41(9) or 43(5).

**Commencement Information**

**I15** Sch. 1 para. 15 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

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*Powers of constables: supplementary*

<sup>F6</sup>16 .....

Textual Amendments

**F6** Sch. 1 para. 16 repealed (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), s. 117(2), **sch. 2 para. 20(a)**; S.S.I. 2017/345, art. 3, sch.

Commencement Information

**I16** Sch. 1 para. 16 in force at 6.10.2006 by **S.S.I. 2006/482, art. 2**

17 The powers conferred on constables by this schedule are without prejudice to any powers conferred on constables by law apart from this schedule.

Commencement Information

**I17** Sch. 1 para. 17 in force at 6.10.2006 by **S.S.I. 2006/482, art. 2**

*Interpretation*

18 In this schedule, a “relevant power” is a power—  
(a) conferred on an inspector by—  
    (i) a provision of this schedule, or  
    (ii) a warrant granted under a provision of this schedule,  
(b) conferred on a constable by—  
    (i) a provision of this schedule <sup>F7</sup>..., or  
    (ii) a warrant granted under a provision of this schedule.

Textual Amendments

**F7** Words in **sch. 1 para. 18(b)(i)** repealed (25.1.2018) by Criminal Justice (Scotland) Act 2016 (asp 1), s. 117(2), **sch. 2 para. 20(b)**; S.S.I. 2017/345, art. 3, sch.

Commencement Information

**I18** Sch. 1 para. 18 in force at 6.10.2006 by **S.S.I. 2006/482, art. 2**

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