
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 543

The EC Fertilisers (Scotland) Regulations 2006

PART III

Enforcement

Enforcement authorities

- 11.**—(1) These Regulations and the Community Regulation shall be enforced by the council.
- (2) The council shall appoint inspectors for the purposes of these Regulations.
- (3) For the purposes of this Part “the council” means the council constituted under section 2 of the Local Government etc. (Scotland) Act 1994⁽¹⁾ for the local government area designated by section 1(2) of, and Part I of Schedule 1 to, that Act.

Powers of entry

- 12.**—(1) An inspector shall, on producing, if so required, some duly authenticated document of authority, have a right at all reasonable hours to enter any premises for the purpose of ensuring that the provisions of these Regulations or the Community Regulation are being complied with.
- (2) An inspector may be accompanied by—
- (a) such other persons as the inspector considers necessary; and
 - (b) any representative of the European Commission acting for the purpose of enforcement of the Community Regulation.
- (3) Admission to any premises used only as a private dwellinghouse shall not be demanded under paragraph (1) unless 24 hours notice of the intended entry has been given to the occupier, or the entry is in accordance with a warrant granted under this regulation.
- (4) If a sheriff or a justice of the peace is satisfied that there are reasonable grounds for entry into any premises for the purposes of the enforcement of these Regulations or the Community Regulation and—
- (a) admission has been refused or a refusal is expected and (in either case) that notice of intention to apply for a warrant has been given to the occupier;
 - (b) asking for admission or the giving of a notice of intention to apply for a warrant would defeat the object of the entry;
 - (c) the case is one of urgency; or
 - (d) the premises are unoccupied or the occupier is temporarily absent,
- the sheriff or the justice of the peace may by warrant authorise the inspector to enter the premises, by reasonable force if necessary.
- (5) A warrant granted under this regulation shall continue in force for one month or until the purpose for which the warrant was granted has been fulfilled, whichever period is shorter.

(1) 1994 c. 39.

(6) If an inspector enters any unoccupied premises that inspector shall leave them as effectively secured against unauthorised entry as that inspector found them.

Powers of inspectors

- 13.**—(1) An inspector entering premises under regulation 12 may—
- (a) inspect the premises and any plant, machinery or equipment;
 - (b) search the premises;
 - (c) inspect any material and take samples in the manner prescribed in Annex IV (methods of sampling and analysis);
 - (d) examine or seize any documents or records (including financial records);
 - (e) carry out any inquiries, examinations and tests;
 - (f) have access to, and inspect and copy any documents or records (in whatever form they are held) required to be kept by the Community Regulation, or remove such records to enable them to be copied provided they are returned as soon as reasonably practicable;
 - (g) have access to, inspect and check the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records; and
 - (h) seize any computer and associated equipment for the purpose of printing or copying documents or records provided they are returned as soon as reasonably practicable.
- (2) For the purposes of paragraph (1)(f) and (g) an inspector—
- (a) may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to give such assistance as the inspector may reasonably require; and
 - (b) where a record is kept by means of a computer, may require the record to be produced in a form in which it may be taken away.

Special provisions relating to compliance notices

14.—(1) The council shall give the Scottish Ministers, on demand, such information as the Scottish Ministers consider that they require in order to exercise their functions under regulation 10.

(2) Where the Scottish Ministers suspect that a person has failed to comply with a notice served under regulation 10(2), they may require the council to take steps to find out whether such a failure has occurred.

(3) Where a council fails to take any step required of it under paragraph (2), the Scottish Ministers may appoint a person, who shall be deemed an inspector for the purposes of these Regulations, for the purpose of taking those steps and the costs of the Scottish Ministers incurred in relation to the appointment and the taking of those steps shall be recoverable from the council, on demand.

Obstruction

- 15.**—(1) Any person who—
- (a) intentionally obstructs a person acting in the execution of these Regulations;
 - (b) without reasonable cause, fails to give a person acting for the purposes of these Regulations assistance or information which that person may reasonably require for the performance of their functions under these Regulations; or
 - (c) provides a person acting for the purposes of these Regulations with information which the person providing the information knows to be false or misleading,
- shall be guilty of an offence.

(2) Nothing in paragraph (1)(b) shall be construed as requiring any person to answer a question if to do so might incriminate that person.