
STATUTORY INSTRUMENTS

1994 No. 2716

The Conservation (Natural Habitats, &c.) Regulations 1994

PART V

SUPPLEMENTARY PROVISIONS

Supplementary provisions as to protection of species

Attempts and possession of means of committing offence

100.—(1) A person who attempts to commit an offence under Part III of these Regulations is guilty of an offence and punishable in like manner as for that offence.

(2) A person who, for the purposes of committing an offence under Part III of these Regulations, has in his possession anything capable of being used for committing the offence is guilty of an offence and punishable in like manner as for that offence.

(3) References below to an offence under Part III include an offence under this regulation.

Commencement Information

11 Reg. 100 in force at 30.10.1994, see [reg. 1\(2\)](#)

Enforcement

101.—(1) If a constable suspects with reasonable cause that any person is committing or has committed an offence under Part III of these Regulations, the constable may without warrant—

(a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person;

(b) [^{F1}search for,] search or examine any thing which that person may then be using or [^{F2}have in his possession][^{F2}may have used, or may have or have had in his possession,] if the constable suspects with reasonable cause that evidence of the commission of the offence is to be [^{F3} found][^{F3}in or] on that thing;

[^{F4}(ba) arrest that person;]

(c) seize and detain for the purposes of proceedings under that Part any thing which may be evidence of the commission of the offence or may be liable to be forfeited under regulation 103.

(2) If a constable suspects with reasonable cause that any person is committing [^{F5}or has committed] an offence under Part III of these Regulations, he may, for the purposes of exercising the powers conferred by paragraph (1) or arresting a person in accordance with

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[^{F6}section 25][^{F6}section 24] of the Police and Criminal Evidence Act 1984(1) for such an offence, enter any land other than a [^{F7}dwelling–house][^{F7}dwelling or lockfast premises].

(3) If a justice of the peace is satisfied by [^{F8}information][^{F8}evidence] on oath that there are reasonable grounds for suspecting that an offence under regulation 39, 41 or 43 has been committed and that evidence of the offence may be found on any premises, he may grant a warrant to any constable [^{F9}(with or without other persons) to enter upon and search those premises][^{F9}to enter those premises, if necessary using reasonable force, and search them] for the purpose of obtaining that evidence.

In the application of this paragraph to Scotland, the reference to a justice of the peace includes a sheriff.

[^{F10}(4) A warrant under paragraph (3) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.

(5) A constable authorised by virtue of this regulation to enter any land must, if required to do so by the occupier or anyone acting on the occupier’s behalf, produce evidence of the constable’s authority.

(6) A constable who enters any land in the exercise of a power conferred by this regulation–

(a) may–

(i) be accompanied by any other persons; and

(ii) take any machinery, other equipment or materials on to the land,
for the purpose of assisting the constable in the exercise of that power;

(b) may take samples of any articles or substances found there and remove the samples from the land.

(7) A power specified in paragraph (6)(a) or (b) which is exercisable under a warrant is subject to the terms of the warrant.

(8) A constable leaving any land which has been entered in exercise of a power conferred by paragraph (2) or by a warrant under paragraph (3), being either unoccupied land or land from which the occupier is temporarily absent, must leave it as effectively secured against unauthorised entry as the constable found it.]

Textual Amendments

- F1** Words in reg. 101(1)(b) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(a)(i)** (with regs. 20, 21)
- F2** Words in reg. 101(1)(b) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(a)(ii)** (with regs. 20, 21)
- F3** Words in reg. 101(1)(b) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(a)(iii)** (with regs. 20, 21)
- F4** Reg. 101(1)(ba) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(b)** (with regs. 20, 21)
- F5** Words in reg. 101(2) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(c)(i)** (with regs. 20, 21)
- F6** Words in reg. 101(2) substituted (E.W.) (1.1.2006) by The Serious Organised Crime and Police Act 2005 (Powers of Arrest) (Consequential Amendments) Order 2005 (S.I. 2005/3389), arts. 1(1), **9**
- F7** Words in reg. 101(2) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), **17(c)(ii)** (with regs. 20, 21)

- F8** Word in reg. 101(3) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), 17(d)(i) (with regs. 20, 21)
- F9** Words in reg. 101(3) substituted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), 17(d)(ii) (with regs. 20, 21)
- F10** Reg. 101(4)-(8) inserted (S.) (29.11.2004) by The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004 (S.S.I. 2004/475), regs. 1(1), 17(e) (with regs. 20, 21)

Commencement Information

- I2** Reg. 101 in force at 30.10.1994, see reg. 1(2)

[F11] Application of sections 19ZC and 19ZD of the Wildlife and Countryside Act 1981

101A.—(1) Subject to paragraphs (2) to (4), sections 19ZC (wildlife inspectors: Scotland) and 19ZD (power to take samples: Scotland) of the Wildlife and Countryside Act 1981 apply, for the purposes of these Regulations.

(2) For the purposes of these Regulations, any reference in section 19ZC or 19ZD of the Wildlife and Countryside Act 1981 to that Act or any part thereof, shall be construed as a reference to these Regulations.

(3) The provisions of section 19ZC of the Wildlife and Countryside Act 1981 apply for the purposes of these Regulations as if—

- (a) in subsection (3)—
- (i) in paragraph (a), the reference to “section 6, 9(5) or 13(2)” was a reference to regulation [F1239(3)] or 43(2) of these Regulations;
 - (ii) paragraphs (b) to (d) were omitted; and
 - (iii) in paragraph (e)(i) and (ii), “registration or” was omitted;
- (b) in subsection (4)—
- (i) in paragraph (a), for “paragraphs (a) to (c) do” there was substituted “ paragraph (a) does ”;
 - (ii) in paragraph (a)(i) and (ii) “registration or” was omitted; and
 - (iii) paragraph (b) was omitted;
- (c) in subsection (5), for the words from “section 6” to “14A” there was substituted a reference to regulation [F1339(3)] or 43(2) of these Regulations;
- (d) in subsection (6), “bird or other” was omitted in each place where it occurs;
- (e) for subsection (9) there was substituted—
- “(9) In this section—
- “relevant licence” means a licence under regulation 44 of the Conservation (Natural Habitats, &c.) Regulations 1994 which authorises anything which would otherwise be an offence under regulation [F1439(3)] or 43(2) of those Regulations;
- “specimen” means any animal or plant or any part of, or anything derived from, an animal or plant.”; and
- (f) after subsection (9) there was inserted—
- “(10) A person guilty of an offence under this section is liable on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.”.

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- (4) the provisions of section 19ZD of the Wildlife and Countryside Act 1981 apply for the purposes of these Regulations as if—
- (a) in subsection (1)—
 - (i) the reference to “section 19” was a reference to regulation 101 of these Regulations; and
 - (ii) the reference to “this Part” was a reference to Part III of these Regulations;
 - (b) in subsection (2), the reference to “this Part” was a reference to Part III of these Regulations;
 - (c) in subsection (3)—
 - (i) for the words from “section 6” to “14A” there was substituted a reference to regulation [F1539(3)] or 43(2) of these Regulations; and
 - (ii) “to (d)” was omitted;
 - (d) in subsection (4), for the words from “section 6” to “14A” there was substituted a reference to regulation [F1639(3)] or 43(2) of these Regulations;
 - (e) in subsection (5), “bird, other” was omitted;
 - (f) in subsections (6) and (7), “bird or other” was omitted;
 - (g) in subsection (8), the reference to “section 19(2)” was a reference to regulation 101(2) of these Regulations;
 - (h) in subsection (10)(b)—
 - (i) for “a bird, other” there was substituted “an ”; and
 - (ii) “bird, other” was omitted; and
 - (i) after subsection (10) there was inserted—

“(11) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.”.]

Textual Amendments

- F11** Reg. 101A inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), regs. 1(1), **18** (with regs. 20, 21)
- F12** Word in reg. 101A(3)(a) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **23**
- F13** Word in reg. 101A(3)(c) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **23**
- F14** Word in reg. 101A(3)(e) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **23**
- F15** Word in reg. 101A(4)(c) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **23**
- F16** Word in reg. 101A(4)(d) substituted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **23**

Proceedings for offences: venue, time limits

102.—(1) An offence under Part III of these Regulations shall, for the purposes of conferring jurisdiction, be deemed to have been committed in any place where the offender is found or to which he is first brought after the commission of the offence.

(2) Summary proceedings [^{F17} for—
[^{F17}for any such offence] may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge.

But no such proceedings shall be brought by virtue of this paragraph more than [^{F18} two][^{F18}three] years after the commission of the offence [^{F19}or, in the case of a continuous contravention, after the last date on which the offence was committed].

(3) For the purposes of paragraph (2) a certificate signed by or on behalf of the prosecutor and stating the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.

Textual Amendments

- F17** Words in [reg. 102\(2\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 19\(a\)](#) (with [regs. 20, 21](#))
- F18** Word in [reg. 102\(2\)](#) substituted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 19\(b\)](#) (with [regs. 20, 21](#))
- F19** Words in [reg. 102\(2\)](#) inserted (S.) (29.11.2004) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2004 \(S.S.I. 2004/475\)](#), [regs. 1\(1\), 19\(c\)](#) (with [regs. 20, 21](#))

Commencement Information

- I3** Reg. 102 in force at 30.10.1994, see [reg. 1\(2\)](#)

Power of court to order forfeiture

103.—(1) The court by which a person is convicted of an offence under Part III of these Regulations—

- (a) shall order the forfeiture of any animal, plant or other thing in respect of which the offence was committed; and
- (b) may order the forfeiture of any vehicle, animal, weapon or other thing which was used to commit the offence.

(2) In paragraph (1)(b) “vehicle” includes aircraft, hovercraft and boat.

Commencement Information

- I4** Reg. 103 in force at 30.10.1994, see [reg. 1\(2\)](#)

Saving for other protective provisions

104. Nothing in these Regulations shall be construed as excluding the application of the provisions of Part I of the Wildlife and Countryside Act 1981(2) (protection of wildlife) in relation to animals or plants also protected under Part III of these Regulations.

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Commencement Information

I5 Reg. 104 in force at 30.10.1994, see [reg. 1\(2\)](#)

[^{F20}Application of criminal offences to the Crown

104A.—(1) No contravention by the Crown of any provision of these Regulations makes the Crown criminally liable; but the Court of Session may, on the application of any public body or office holder having responsibility for enforcing that provision, declare unlawful any act or omission of the Crown which constitutes such a contravention.

(2) Despite paragraph (1), the provisions of these Regulations apply to persons in the public service of the Crown as they apply to other persons.]

Textual Amendments

F20 [Reg. 104A](#) inserted (S.) (15.2.2007) by [The Conservation \(Natural Habitats, &c.\) Amendment \(Scotland\) Regulations 2007 \(S.S.I. 2007/80\)](#), regs. 2, **24**

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