

SCHEDULE 4

Regulation 19(2)

Powers of inspectors

Powers of entry etc.

1.—(1) An inspector, on producing a duly authenticated authorisation if required, may at any reasonable time enter any premises of a supplier where the inspector reasonably suspects that any activity that is governed by these Regulations is being carried on for the purposes of ascertaining whether there is or has been any contravention of these Regulations.

(2) An inspector entering premises under sub-paragraph (1) may—

- (a) be accompanied by—
 - (i) such other persons as the inspector considers necessary; and
 - (ii) any representative of the European Commission acting for the purpose of the enforcement of a European Union obligation;
- (b) take on to those premises any equipment or materials that the inspector considers necessary for the enforcement of these Regulations;
- (c) open any container;
- (d) carry out any searches, inspections, measurements and tests;
- (e) take samples;
- (f) have access to, and inspect, any books, documents or records (in whatever form they are held) relating to these Regulations and remove them to enable them to be copied;
- (g) photograph or copy anything whose production the inspector has power to require under paragraph (f);
- (h) photograph anything which the inspector has reasonable cause to believe may be relevant in connection with the enforcement of these Regulations; and
- (i) seize any computers and associated equipment for the purpose of copying documents provided that they are returned as soon as practicable.

(3) Any person who accompanies an inspector in accordance with this paragraph may perform any of the inspector's functions but only under the supervision of that inspector.

Information notice

2. An inspector may, by notice served on any person, require that person to provide such information as is specified in the notice in such form and within such period following service of the notice or at such time as is so specified.

Prohibition on movement

3. An inspector may, by notice served on any person, prohibit that person from moving plant material from any premises if the inspector has reasonable grounds to suspect that the plant material fails to comply with the requirements of regulation 12(a).

Enforcement and prohibition notices

4.—(1) An inspector may serve a notice on any person who contravenes, or who the inspector has reasonable grounds to suspect may contravene, these Regulations—

- (a) requiring that person to act in accordance with the Regulations (an “enforcement notice”);
or

Status: This is the original version (as it was originally made).

(b) prohibiting that person from acting in breach of them (a “prohibition notice”).

(2) The notice must give reasons for serving it and, if appropriate, specify what action must be taken and give time limits.

Appeals against enforcement and prohibition notices

5.—(1) Any person who is aggrieved by a decision of an inspector to serve a notice under this Schedule may appeal to a magistrate’s court or, in Scotland, to the sheriff.

(2) The procedure on appeal to a magistrate’s court is by way of complaint and the Magistrates’ Court Act 1980(1) or, in the case of Northern Ireland, the Magistrates’ Courts (Northern Ireland) Order 1981(2), applies to the proceedings.

(3) An appeal to the sheriff is by summary application.

(4) The period within which an appeal must be brought is 28 days from the service of the notice or, in the case of an enforcement notice, the period specified in the notice, whichever ends earlier.

(5) A notice served under this Schedule must state—

(a) the right of appeal to a magistrates’ court or the sheriff; and

(b) the period in which such an appeal may be brought.

(6) On an appeal under this paragraph, the court may either cancel or affirm the notice and, if it affirms the notice, it may do so either in its original form or with such modifications as it thinks fit; and a reference in this sub-paragraph to a court includes, in relation to Scotland, a reference to the sheriff.

Compliance with notices

6. A notice served under this Schedule must be complied with at the expense of the person on whom it is served and, if it is not complied with, an inspector may arrange for it to be complied with at the expense of that person.

(1) 1980 c.43; sections 51 and 52 have been substituted by section 47 of the Courts Act 2003 (c. 39).

(2) S.I. 1981/1675 (N.I. 26).