
STATUTORY INSTRUMENTS

2010 No. 490

The Conservation of Habitats and Species Regulations 2010

PART 7

ENFORCEMENT

Powers of entry

Powers of entry: constables

109.—(1) If a constable suspects with reasonable cause that any person is committing or has committed an offence specified in paragraph (4), the constable may, for the purposes of exercising the powers conferred by regulation 112 (constables' powers of search, etc.) or arresting a person in accordance with section 24 of the Police and Criminal Evidence Act 1984⁽¹⁾ (arrest without warrant: constables) for such an offence, enter any premises other than a dwelling.

(2) A constable may—

- (a) be accompanied by any other person that the constable considers necessary; and
- (b) bring any equipment or materials that the constable considers necessary.

(3) If a justice of the peace, on sworn information in writing, is satisfied that there are reasonable grounds for suspecting that an offence specified in paragraph (4) has been committed and that evidence of the offence may be found on any premises, the justice may by signed warrant authorise a constable to enter and search those premises for the purpose of obtaining that evidence.

(4) The offences specified for the purposes of this regulation are—

- (a) a species offence;
- (b) an offence under regulation 52 (introduction of new species from ships);
- (c) an offence under regulation 57 (false statements made for obtaining licence); and
- (d) an offence under regulation 116(1) or (2) (attempts and possession of means of committing offence).

Powers of entry: wildlife inspectors

110.—(1) A wildlife inspector may, at all reasonable hours, enter and inspect any premises other than a dwelling—

- (a) for the purpose of ascertaining whether a species offence is being or has been committed; or
- (b) for the purpose of verifying any statement or representation made, or document or information supplied, by an occupier of the premises in connection with an application for, or the holding of, a licence granted under regulation 53 (licences for certain activities relating to animals or plants).

⁽¹⁾ 1984 c. 60; section 24 was substituted by the Serious Organised Crime and Police Act 2005 (c. 15), section 110(1).

(2) The power in paragraph (1) to enter and inspect premises includes power to board and inspect a ship within the marine area, subject to paragraphs (3) to (6).

(3) Paragraph (4) applies in relation to—

- (a) a third country ship;
- (b) a warship which is being used by the government of a State other than the United Kingdom (whether or not it is a third country ship); and
- (c) any other ship which is being used by the government of a State other than the United Kingdom for any non-commercial purpose.

(4) A wildlife inspector must not, in the exercise of the power in paragraph (1), board or inspect a ship to which this paragraph applies unless—

- (a) in the case of a third country ship (other than a ship which is being used as mentioned in paragraph (3)(b) or (c)), the United Kingdom is entitled under international law to exercise that power without the consent of the flag state; or
- (b) the Commissioners have given authority to exercise that power.

(5) The Commissioners must not give their authority under paragraph (4)(b) unless the flag state has consented to the United Kingdom exercising that power (whether generally or in relation to the ship in question).

(6) In giving their authority under paragraph (4)(b), the Commissioners must impose such conditions or limitations on the exercise of the power as may be necessary to give effect to any conditions or limitations imposed by the flag state.

(7) A wildlife inspector must, if requested to do so, produce a duly authenticated authorisation document before entering any premises.

(8) A wildlife inspector may be accompanied by a veterinary surgeon if the wildlife inspector has reasonable grounds for believing that such a person will be needed for the exercise of powers under regulation 114 (powers in relation to specimens and samples: wildlife inspectors).

(9) In this regulation—

“the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;

“flag state”, in relation to a ship, means the State whose flag that ship is flying or is entitled to fly; and

“third country ship” means a ship which—

- (a) is flying the flag of, or is registered in, any State or territory (other than Gibraltar) which is not a member State; and
- (b) is not registered in a member State.

Powers of entry: other authorised persons

111.—(1) A person authorised in writing by the appropriate nature conservation body may, at all reasonable hours, enter any land except a dwelling—

- (a) to ascertain whether a special nature conservation order should be made under regulation 25 (power to make special nature conservation order), whether a stop notice should be served under paragraph (1) of regulation 26 (restriction on carrying out operations specified in order) or whether an offence under regulation 26(8) is being, or has been, committed on that land;
- (b) to ascertain the amount of any compensation payable under regulation 28 (compensation for effect of stop notice) in respect of an interest in that land; or

(c) to affix a notice in accordance with regulation 26(3) or paragraph 2(5) of Schedule 1 (procedure in connection with special conservation orders).

(2) An officer of the Valuation Office or a person authorised in writing by the appropriate nature conservation body may enter any land for the purpose of surveying it, or of estimating its value, in connection with any claim for compensation under regulation 32 (compensation for effect of byelaws) in respect of that or any other land.

(3) A person authorised in writing by the authority having power to acquire land or an interest in land may enter that land for the purpose of surveying it in connection with the acquisition of that land or of any interest in that land, whether by agreement or compulsorily, in the exercise of any power conferred by these Regulations.

(4) A person authorised under this regulation must, if requested to do so, produce a duly authenticated authorisation document before entering any land.

(5) A person authorised under paragraph (1) may not demand admission as of right to any land which is occupied unless either—

(a) 24 hours' notice of the intended entry has been given to the occupier; or

(b) the purpose of the entry is to ascertain whether an offence under regulation 26(8) is being, or has been, committed on that land.

(6) A person authorised under paragraph (2) or (3) may not demand admission as of right to any land which is occupied unless at least 14 days' notice in writing of the intended entry has been given to the occupier.