
STATUTORY INSTRUMENTS

2015 No. 821

The Nagoya Protocol (Compliance) Regulations 2015

PART 4

Enforcement

Inspectors

9. The Secretary of State may authorise in writing a person (an “inspector”) to carry out inspections for the purpose of enforcing the EU Regulation.

Powers of entry

10.—(1) An inspector may, on serving reasonable notice, enter premises at any reasonable hour for the purpose of enforcing the EU Regulation, except premises used wholly or mainly as a private dwelling house.

(2) The requirement to serve a notice does not apply—

- (a) where reasonable efforts to agree an appointment have failed;
- (b) where an inspector reasonably believes that serving a notice would defeat the object of the entry;
- (c) where an inspector has a reasonable suspicion that an offence has been committed under regulation 13; or
- (d) in an emergency.

(3) An inspector must, if requested, produce a duly authenticated authorisation document.

(4) Paragraph (1) does not affect any right of entry conferred by a warrant issued in accordance with paragraph (5).

(5) A justice of the peace may by signed warrant permit an inspector to enter premises, if necessary by reasonable force, if the justice, on sworn information in writing, is satisfied that—

- (a) there are reasonable grounds for an inspector to enter those premises for the purpose of enforcing the EU Regulation; and
- (b) one of the conditions in paragraph (6) is met.

(6) The conditions are that—

- (a) entry to the premises without warrant has been refused or is likely to be refused, and notice of the intention to apply for a warrant has been served on the occupier;
- (b) asking for admission to the premises, or serving notice of entry, would defeat the object of the entry;
- (c) entry is urgently required;
- (d) the premises are unoccupied or the occupier is temporarily absent.

(7) But the power in paragraph (5) does not extend to premises used wholly or mainly as a dwelling house.

(8) A warrant is valid for three months.

(9) An inspector entering premises under this regulation may—

- (a) be accompanied by such other persons as the inspector considers necessary;
- (b) bring onto the premises such equipment as the inspector considers necessary.

(10) Where an inspector enters premises which are unoccupied or from which the occupier is temporarily absent, the inspector must leave them as effectively secured against unauthorised entry as they were before the inspector's entry.

(11) An inspector may require a vehicle, vessel, aircraft or hovercraft that the inspector has reasonable grounds to believe is transporting evidence to stop to allow the inspector to exercise the powers conferred by these Regulations.

(12) In paragraph (5)—

- (a) in relation to Scotland, a reference to a justice of the peace is a reference to a sheriff, and the reference to "sworn information in writing" is a reference to evidence on oath;
- (b) in relation Northern Ireland, a reference to a justice of the peace is a reference to a lay magistrate, and the reference to "sworn information in writing" is a reference to a sworn complaint in writing.

Powers of inspection

11.—(1) An inspector who has entered premises in exercise of a power under regulation 10 may—

- (a) inspect the premises and any products, goods or biological material found on the premises;
- (b) search the premises;
- (c) have access to, inspect and copy documents, records or other information, in whatever form they are held, and remove them to enable them to be copied;
- (d) require the production of, and inspect and check the data on, and operation of, any computer and any associated apparatus used in connection with such documents, records or other information, and require computer records to be produced in a form in which they may be easily accessed and taken away by the inspector;
- (e) take samples of products, goods or biological material;
- (f) carry out any examination, investigation or test; and
- (g) take photographs, measurements or recordings.

(2) An inspector may require any person to provide as may be necessary for the purpose of enforcing the EU Regulation any—

- (a) assistance;
- (b) documents, records or other information.

Restrictions on enforcement powers

12. Nothing in these Regulations must be taken as—

- (a) requiring a person to produce any document which that person would be entitled to refuse to produce in any proceedings in any court on the grounds that it is the subject of legal professional privilege or, in Scotland, that it contains a confidential communication made by or to an advocate or solicitor in that capacity; or

- (b) authorising a person to take possession of any document which is in the possession of a person who would be so entitled.