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Public Health (Wales) Act 2017

2017 anaw 2

PART 4

SPECIAL PROCEDURES

PROSPECTIVE

Enforcement

83 Authorised officers

References in sections 84 to 92 to an authorised officer are to any person (whether or not an officer of the local authority) authorised to exercise functions of a local authority under or by virtue of this Part, either—

- (a) by the authority, or
- (b) by any person with whom the authority has entered into arrangements for that person to exercise functions of the authority under this Part.

84 Powers of entry etc.

- (1) An authorised officer may, if the officer considers it necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part, at any reasonable time enter any premises that are within subsection (4).
- (2) But this does not apply in relation to premises used wholly or mainly as a dwelling.
- (3) An authorised officer may not enter premises by force under this section.
- (4) Premises are within this subsection if the officer has reason to believe that—
 - (a) a special procedure has been, is being, or is likely to be performed at the premises, or
 - (b) material or equipment intended for use in, or in connection with, the performance of a special procedure is stored or prepared at the premises.

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- (5) An authorised officer must, if asked to do so, before entering premises under this section show evidence of the authorisation referred to in section 83.
- (6) This section applies to a vehicle as if it were premises.

85 Warrant to enter dwelling

- (1) A justice of the peace may exercise the power in subsection (3) if satisfied on sworn information in writing that, for the purpose of the exercise of a local authority's functions under or by virtue of this Part, it is necessary to enter premises that—
 - (a) are used wholly or mainly as a dwelling, but
 - (b) are within subsection (2).
- (2) Premises are within this subsection if there is reason to believe that—
 - (a) a special procedure has been, is being, or is likely to be performed at the premises, or
 - (b) material or equipment intended for use in, or in connection with, the performance of a special procedure is stored or prepared at the premises.
- (3) The justice may issue a warrant authorising an authorised officer of the authority to enter the premises, if need be by force.
- (4) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.
- (5) This section applies to a vehicle as if it were premises.

86 Warrant to enter other premises

- (1) A justice of the peace may exercise the power in subsection (2) if satisfied on sworn information in writing—
 - (a) that, for the purpose of the exercise of a local authority's functions under or by virtue of this Part, it is necessary to enter premises that are not used wholly or mainly as a dwelling, and
 - (b) that a requirement set out in one or more of subsections (3) to (6) is met.
- (2) The justice may issue a warrant authorising an authorised officer of the authority to enter the premises, if need be by force.
- (3) The requirement is that—
 - (a) a request to enter the premises has been, or is likely to be, refused, and
 - (b) notice of intention to apply for a warrant under this section has been given to the occupier or a person who reasonably appears to the local authority to be concerned in the management of the premises.
- (4) The requirement is that requesting to enter the premises, or the giving of notice of intention to apply for a warrant under this section, is likely to defeat the purpose of the entry.
- (5) The requirement is that the premises are unoccupied.
- (6) The requirement is that—
 - (a) the occupier of the premises is temporarily absent, and

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(b) awaiting the occupier's return is likely to defeat the purpose of the entry.

(7) The warrant continues in force until the end of the period of 28 days beginning with the date on which it was issued.

(8) This section applies to a vehicle as if it were premises.

87 Supplementary provision about powers of entry

(1) An authorised officer entering premises by virtue of section 84, or by virtue of a warrant under section 85 or 86, may take such other persons and such equipment as the officer considers appropriate.

(2) If the occupier of premises that an authorised officer is authorised to enter by a warrant under section 85 or 86 is present at the time the authorised officer seeks to execute the warrant—

- (a) the occupier must be told the officer's name;
- (b) the officer must produce to the occupier documentary evidence that the officer is an authorised officer;
- (c) the officer must produce the warrant to the occupier;
- (d) the officer must supply the occupier with a copy of it.

(3) If premises that an authorised officer is authorised to enter by a warrant under section 85 or 86 are unoccupied, or if the occupier is temporarily absent, then on leaving the premises the officer must leave them as effectively secured against unauthorised entry as when the officer found them.

(4) This section applies to a vehicle as if it were premises.

88 Powers of inspection etc.

(1) An authorised officer entering premises under section 84, or by virtue of a warrant under section 85 or 86, may do any of the following if the officer considers it necessary for the purpose of the exercise of the authority's functions under or by virtue of this Part—

- (a) carry out inspections and examinations on the premises;
- (b) require the production of anything on the premises, inspect it, and take and retain samples of or extracts from it;
- (c) take possession of anything on the premises, and retain it for as long as the officer considers necessary for that purpose;
- (d) require any person to give information, or afford facilities and assistance with respect to matters within the person's control.

(2) If the authorised officer considers it necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part, the officer may arrange for anything produced under subsection (1)(b), or of which the officer has taken possession under subsection (1)(c), to be analysed.

(3) If by virtue of subsection (1)(c) the authorised officer takes anything away from the premises, the officer must leave on the premises from which it was taken a statement—

- (a) giving particulars of what has been taken and stating that the officer has taken possession of it, and

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- (b) identifying the person to whom a request for the return of the property may be made.
- (4) The powers conferred by this section include the power—
 - (a) to copy documents found on the premises;
 - (b) to impose requirements as to how documents are provided (which may include requirements to provide legible copies of documents found on the premises that are stored electronically).
- (5) For this purpose, “documents” includes information recorded in any form; and references to documents found on the premises include—
 - (a) documents stored on computers or other electronic devices on the premises, and
 - (b) documents stored elsewhere that can be accessed by computers or other electronic devices on the premises.
- (6) A person is not required by this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in or for the purposes of proceedings in a court in England and Wales.
- (7) This section applies to a vehicle as if it were premises.

89 Obstruction etc. of officers

- (1) Any person who intentionally obstructs an authorised officer exercising functions under sections 84 to 88 commits an offence.
- (2) Any person who without reasonable cause fails—
 - (a) to provide an authorised officer with facilities that the authorised officer reasonably requires for the purpose of a requirement under section 88(1), or
 - (b) to comply with a requirement under section 88(1)(b) or (d),
 commits an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) This section is subject to section 88(6).

90 Power to make test purchases

An authorised officer may make such purchases and arrangements, and secure the provision of such services, as the officer considers necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part.

91 Retained property: appeals

- (1) A person (“P”) with an interest in anything taken away under section 88(1)(c) by an authorised officer of a local authority (“retained property”) may apply by way of complaint to any magistrates' court for an order requiring it to be released, either to P or another person.
- (2) If, on an application under this section, the court is satisfied that the continued retention of the retained property is not necessary for the purpose of the exercise of

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the authority's functions under or by virtue of this Part, it may make an order requiring the release of the retained property.

- (3) An order under this section may contain whatever provision the court thinks appropriate for delaying its coming into force pending the making and determination of an appeal (including an application under section 111 of the Magistrates' Courts Act 1980 (c.43)).
- (4) If the court adjourns the hearing of an application under this section, it may make an order in respect of the retained property that lasts until the final hearing of the application or until any further order is made, if it considers it appropriate to do so.
- (5) Nothing in this section affects any other power of the court to make an order in respect of the retained property, including any power to make an order under section 1 of the Police (Property) Act 1897 (c.30).

92 Appropriated property: compensation

- (1) A person (“P”) with an interest in anything of which an authorised officer of a local authority has taken possession under section 88(1)(c) (“appropriated property”) may apply by way of complaint to any magistrates' court for compensation.
- (2) Subsection (3) applies if, on an application under this section, the court is satisfied that—
 - (a) P has suffered loss or damage in consequence of the authorised officer's taking possession of the appropriated property, or retaining it, in circumstances where doing so was not necessary for the purpose of the exercise of the local authority's functions under or by virtue of this Part, and
 - (b) the loss or damage is not attributable to the neglect or default of P.
- (3) The court may order the local authority to pay compensation to P.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing S.I. 2017/949, art. 3 by [S.I. 2017/967 art. 2](#)