



Animal Health and Welfare (Scotland) Act 2006

2006 asp 11

PART 1

ANIMAL HEALTH

Miscellaneous

12 Powers of entry etc.

After section 62F of the 1981 Act there is inserted—

“62G Powers of entry etc.: Scotland

- (1) An inspector may enter any premises in Scotland for the purpose of—
 - (a) ascertaining whether a power of slaughter conferred by or under any provision mentioned in subsection (3) should be exercised; or
 - (b) doing anything in pursuance of or in connection with the exercise of such a power.
- (2) A power of slaughter conferred by or under any provision mentioned in subsection (3) extends to the taking of any action for the purposes of or in connection with the exercise of the power.
- (3) The provisions are—
 - (a) section 16B of;
 - (b) section 32 of;
 - (c) Schedule 3 to;
 - (d) Schedule 3A to,this Act.
- (4) An inspector acting under subsection (1) must, if required, produce evidence of the inspector’s authority.

- (5) Where any power of entry conferred on an inspector by this Act is exercised in relation to premises used exclusively as a dwelling-house, 24 hours' notice of the intended entry is to be given to the occupier unless the inspector thinks the case is one of urgency.
- (6) Any power of entry conferred on an inspector by this Act must be exercised at a reasonable hour unless the inspector thinks the case is one of urgency.
- (7) In this section and sections 62H and 62I, an “inspector” means—
 - (a) a person appointed as an inspector for the purposes of this Act by the Scottish Ministers; or
 - (b) a person authorised by the Scottish Ministers for those purposes.
- (8) In this section and sections 62H and 62I, “premises” includes—
 - (a) any land or building; or
 - (b) any other place, in particular—
 - (i) a vehicle or vessel; or
 - (ii) a tent or moveable structure.

62H Warrants

- (1) A sheriff or justice of the peace may issue a warrant authorising an inspector to enter (if necessary using reasonable force) any premises in Scotland for the purpose mentioned in subsection (2), if satisfied by evidence on oath that—
 - (a) the first condition is satisfied; and
 - (b) either the second or the third condition is satisfied.
- (2) The purpose is that of—
 - (a) ascertaining whether a function of the Scottish Ministers or inspectors under this Act should be exercised; or
 - (b) doing anything in pursuance of or in connection with the exercise of such a function.
- (3) The evidence must include—
 - (a) a statement as to whether any representations have been made by the occupier of the premises to an inspector concerning the purpose for which the warrant is sought;
 - (b) a summary of any such representations.
- (4) The first condition is that there are reasonable grounds for an inspector to enter the premises for that purpose.
- (5) The second condition is that each of the following applies—
 - (a) the occupier has been informed of the decision to seek entry to the premises and of the reasons for that decision;
 - (b) the occupier has failed to allow entry to the premises on being requested to do so by an inspector; and
 - (c) the occupier has been informed of the intention to apply for the warrant.
- (6) The third condition is that—

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- (a) the premises are unoccupied or the occupier appears to be absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises; or
 - (b) the object of entering would be defeated if the occupier were requested to allow entry or informed of an intention to apply for a warrant.
- (7) A warrant issued under this section must be executed at a reasonable hour unless the inspector thinks the case is one of urgency.
- (8) A warrant issued under this section remains in force for one month starting with the date of its grant.

62I Entry and warrants: supplementary

- (1) This section applies to an inspector who enters any premises by virtue of a power conferred on the inspector by or under this Act or under a warrant under section 62H.
- (2) The inspector may take on to the premises—
- (a) such other persons as the inspector thinks necessary to give the inspector such assistance as the inspector thinks necessary;
 - (b) such equipment as the inspector thinks necessary.
- (3) The inspector may require any person on the premises who falls within subsection (4) to give the inspector such assistance as the inspector may reasonably require.
- (4) The following persons fall within this subsection—
- (a) the occupier of the premises;
 - (b) a person appearing to the inspector to have charge of animals on the premises;
 - (c) a person appearing to the inspector to be under the direction or control of a person mentioned in paragraph (a) or (b).
- (5) If the inspector enters any premises by virtue of a warrant issued under section 62H the inspector must at the time of entry—
- (a) serve a copy of the warrant on the occupier of the premises; or
 - (b) if the occupier is not on the premises, leave a copy of the warrant in a conspicuous place on the premises.
- (6) If the inspector enters any unoccupied premises the inspector must leave them as effectively secured against entry as the inspector found them.”.

13 Inspection of vehicles

After section 65A of the 1981 Act there is inserted—

“65B Inspection of vehicles: Scotland

- (1) If each of the conditions in subsection (2) is satisfied, an inspector may stop, detain and inspect any vehicle to ascertain whether the provisions of any of the following are being complied with—
- (a) this Act;

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- (b) an order under this Act;
 - (c) a regulation of a local authority made in pursuance of such an order;
 - (d) regulations made by the Scottish Ministers under this Act.
- (2) The conditions are—
- (a) that the vehicle is in an infected place or area;
 - (b) that the inspector is accompanied by a constable in uniform.
- (3) In this section, a “vehicle” includes—
- (a) a trailer, a semi-trailer or other thing which is designed or adapted to be towed by another vehicle;
 - (b) anything on a vehicle;
 - (c) a detachable part of a vehicle;
 - (d) a container or other structure designed or adapted to be carried by or on a vehicle.”.

14 Penalties and time limits

For section 75 (punishment of summary offences not otherwise provided for) of the 1981 Act there is substituted—

“75 Penalties and time limits for certain offences: Scotland

- (1) This section applies to any offence under this Act for which no penalty is specified by any other provision of this Act.
- (2) A person guilty of an offence to which this section applies 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.
- (3) Proceedings for an offence to which this section applies may be brought within the period of 6 months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to the prosecutor’s knowledge.
- (4) No such proceedings may be brought more than 3 years—
 - (a) after the commission of the offence; or
 - (b) in the case of an offence involving a continuous contravention, after the last date on which the offence was committed.
- (5) It shall be competent in a prosecution of an offence involving a continuous contravention to include the entire period during which the contravention occurred.
- (6) For the purposes of this section proceedings shall be deemed to be commenced on the date on which a warrant to apprehend or to cite the accused is granted provided that the warrant is executed without undue delay.
- (7) A certificate signed by or on behalf of the prosecutor and stating the date on which such evidence came to the prosecutor’s knowledge is conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed is to be treated as being so signed unless the contrary is proved.”.

15 Electronic communication

After section 83 of the 1981 Act there is inserted—

“83A Electronic communication: Scotland

- (1) Any requirement in the provisions mentioned in subsection (3) for something to be done in writing may be met by doing that thing as described in subsection (2).
- (2) That is, by using a document—
 - (a) transmitted by electronic means; and
 - (b) capable of being reproduced in legible form.
- (3) Those provisions are—
 - (a) sections 3(2), 30(1), 36Q(1) and (6), 40(1)(b), 41(1)(b), 47, 60(9), 63(4) and 65(1) of, and paragraph 2(4) of Schedule 3 to, this Act;
 - (b) sections 17(3), 22(7)(a), 62G(5) and 81 (each as read with section 83(1)) of this Act.
- (4) But subsection (1) applies in relation to section 17(3), 22(7)(a), 30(1), 36Q(1) or (6) or 62G(5) only if—
 - (a) the recipient has consented to receive electronic communication for the purpose; and
 - (b) transmission is to an email address provided by the recipient.
- (5) For the purposes of sections 17(3), 22(7)(a), 30(1) and 36Q(1), a document transmitted under subsection (1) shall be taken to be received on the day after the day of its transmission.
- (6) The Scottish Ministers may, for the purposes of this Act, by order make further provision for the purposes of or in connection with—
 - (a) using electronic communication (including the use of electronic signatures);
 - (b) using documents in electronic form.
- (7) An order under subsection (6)—
 - (a) may make provision by amending this Act or otherwise;
 - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (8) In this section—

“electronic communication” is to be construed in accordance with section 15(1) of the Electronic Communications Act 2000 (c. 7);

“electronic signature” is to be construed in accordance with section 7(2) of that Act.”.