



# Nature Conservation (Scotland) Act 2004

## 2004 asp 6

### PART 2

#### CONSERVATION AND ENHANCEMENT OF NATURAL FEATURES

### CHAPTER 4

#### GENERAL AND SUPPLEMENTARY

#### **43 Powers of investigation etc.: police**

- (1) A constable who suspects with reasonable cause that any person is committing or has committed an offence under this Part may, without warrant—
  - (a) stop and search that person if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found on that person,
  - (b) search for, search or examine any thing which that person may then be using or may have used, or may have or have had in the person's possession, if the constable suspects with reasonable cause that evidence of the commission of the offence is to be found in or on that thing,
  - (c) seize and detain for the purposes of proceedings under this Part any thing which may be evidence of the commission of the offence.
- (2) A constable who suspects with reasonable cause that any person is committing or has committed an offence under this Part may, for the purpose of exercising the powers conferred by subsection (1), enter any land other than a dwelling or lockfast premises.
- (3) If a sheriff or justice of the peace is satisfied, by evidence on oath, that there are reasonable grounds for suspecting that an offence under this Part has been committed and that evidence of the offence may be found on any premises, the sheriff or justice may grant a warrant authorising a constable to enter those premises, if necessary using reasonable force, and search them for the purposes of obtaining that evidence.
- (4) A warrant under subsection (3) continues in force until the purpose for which the entry is required has been satisfied or, if earlier, the expiry of such period as the warrant may specify.

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*Status: This is the original version (as it was originally enacted).*

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- (5) A constable authorised by virtue of this section to enter any land must, if required to do so by the occupier or anyone acting on the occupier's behalf, produce evidence of the constable's authority.
- (6) A constable who enters any land in the exercise of a power conferred by this section—
- (a) may—
    - (i) be accompanied by any other persons, and
    - (ii) take any machinery, other equipment or materials on to the land, for the purpose of assisting the constable in the exercise of that power,
  - (b) may take samples of any articles or substances found there and remove the samples from the land.
- (7) A power specified in subsection (6)(a) or (b) which is exercisable under a warrant is subject to the terms of the warrant.
- (8) A constable leaving any land which has been entered in exercise of a power conferred by subsection (2) or by a warrant under subsection (3), being either unoccupied land or land from which the occupier is temporarily absent, must leave it as effectively secured against unauthorised entry as the constable found it.