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SCOTTISH STATUTORY INSTRUMENTS

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**2004 No. 475**

**The Conservation (Natural Habitats, &c.)  
Amendment (Scotland) Regulations 2004**

*Amendments to Part V*

**17.** In regulation 101 (enforcement)–

(a) in paragraph (1)(b)–

- (i) at the beginning insert “ search for, ”;
- (ii) for “have in his possession” substitute “ may have used, or may have or have had in his possession, ”; and
- (iii) after “found” insert “ in or ”;

(b) after paragraph (1)(b) insert–

“(ba) arrest that person;”;

(c) in paragraph (2)–

- (i) after “committing” insert “ or has committed ”; and
- (ii) for “dwelling-house” substitute “ dwelling or lockfast premises ”;

(d) in paragraph (3)–

- (i) for “information” substitute “ evidence ”; and
- (ii) for the words from “(with” to “premises” in the second place where it occurs substitute “ to enter those premises, if necessary using reasonable force, and search them ”; and

(e) after paragraph (3) insert–

“(4) A warrant under paragraph (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.

(5) A constable authorised by virtue of this regulation 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 regulation–

(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 paragraph (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 paragraph (2) or by a warrant under paragraph (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.”.

**18. After regulation 101 insert–**

**“Application of sections 19ZC and 19ZD of the Wildlife and Countryside Act 1981**

**101A.**—(1) Subject to paragraphs (2) to (4), sections 19ZC (wildlife inspectors: Scotland) and 19ZD (power to take samples: Scotland) of the Wildlife and Countryside Act 1981 <sup>M1</sup> apply, for the purposes of these Regulations.

(2) For the purposes of these Regulations, any reference in section 19ZC or 19ZD of the Wildlife and Countryside Act 1981 to that Act or any part thereof, shall be construed as a reference to these Regulations.

(3) The provisions of section 19ZC of the Wildlife and Countryside Act 1981 apply for the purposes of these Regulations as if–

(a) in subsection (3)–

(i) in paragraph (a), the reference to “section 6, 9(5) or 13(2)” was a reference to regulation 39(2) or 43(2) of these Regulations;

(ii) paragraphs (b) to (d) were omitted; and

(iii) in paragraph (e)(i) and (ii), “registration or” was omitted;

(b) in subsection (4)–

(i) in paragraph (a), for “paragraphs (a) to (c) do” there was substituted “paragraph (a) does ”;

(ii) in paragraph (a)(i) and (ii) “registration or” was omitted; and

(iii) paragraph (b) was omitted;

(c) in subsection (5), for the words from “section 6” to “14A” there was substituted a reference to regulation 39(2) or 43(2) of these Regulations;

(d) in subsection (6), “bird or other” was omitted in each place where it occurs;

(e) for subsection (9) there was substituted–

“(9) In this section–

“relevant licence” means a licence under regulation 44 of the Conservation (Natural Habitats, &c.) Regulations 1994 <sup>M2</sup> which authorises anything which would otherwise be an offence under regulation 39(2) or 43(2) of those Regulations;

“specimen” means any animal or plant or any part of, or anything derived from, an animal or plant.”; and

(f) after subsection (9) there was inserted–

“(10) A person guilty of an offence under this section 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.”.

- (4) the provisions of section 19ZD of the Wildlife and Countryside Act 1981 apply for the purposes of these Regulations as if—
- (a) in subsection (1)—
    - (i) the reference to “section 19” was a reference to regulation 101 of these Regulations; and
    - (ii) the reference to “this Part” was a reference to Part III of these Regulations;
  - (b) in subsection (2), the reference to “this Part” was a reference to Part III of these Regulations;
  - (c) in subsection (3)—
    - (i) for the words from “section 6” to “14A” there was substituted a reference to regulation 39(2) or 43(2) of these Regulations; and
    - (ii) “to (d)” was omitted;
  - (d) in subsection (4), for the words from “section 6” to “14A” there was substituted a reference to regulation 39(2) or 43(2) of these Regulations;
  - (e) in subsection (5), “bird, other” was omitted;
  - (f) in subsections (6) and (7), “bird or other” was omitted;
  - (g) in subsection (8), the reference to “section 19(2)” was a reference to regulation 101(2) of these Regulations;
  - (h) in subsection (10)(b)—
    - (i) for “a bird, other” there was substituted “an ”; and
    - (ii) “bird, other” was omitted; and
  - (i) after subsection (10) there was inserted—

“(11) A person guilty of an offence under this section 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.””

#### Marginal Citations

- M1** Sections 19ZC and 19ZD of that Act were inserted by the [Nature Conservation \(Scotland\) Act 2004](#) (asp 6), [section 50](#) and schedule 6, paragraph 17.
- M2** [S.I. 1994/2716](#).

- 19.** In regulation 102(2) (proceedings for offences: venue, time limits)—
- (a) for the words from “for—” to “regulation 43(1)”, substitute “ for any such offence ”;
  - (b) for “two” substitute “ three ”; and
  - (c) at the end, add “ or, in the case of a continuous contravention, after the last date on which the offence was committed ”.

**Changes to legislation:**

There are currently no known outstanding effects for the The Conservation (Natural Habitats, &c.) Amendment (Scotland) Regulations 2004, Amendments to Part V.