



Environmental Protection Act 1990

1990 CHAPTER 43

PART VI

GENETICALLY MODIFIED ORGANISMS

Inspectors

114 Appointment etc of inspectors.

- (1) The Secretary of State may appoint as inspectors, for carrying this Part into effect, such number of persons appearing to him to be qualified for the purpose as he may consider necessary.
- (2) The Secretary of State may make to or in respect of any person so appointed such payments by way of remuneration, allowances or otherwise as he may with the approval of the Treasury determine.
- (3) An inspector shall not be personally liable in any civil or criminal proceedings for anything done in the purported exercise of any power under section 115 or 117 below if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (4) In England and Wales an inspector, if authorised to do so by the Secretary of State, may, although not of counsel or a solicitor, prosecute before a magistrates' court proceedings for an offence under section 118(1) below.
- (5) In this Part "inspector" means, subject to section 125 below, a person appointed as an inspector under subsection (1) above.

Commencement Information

- II** S. 114 wholly in force; s. 114 not in force at Royal Assent see s. 164(2)(3); s. 114(1)-(3) in force at 1.4.1991 see S.I. 1991/1042, art. 2; s. 114(4)(5) in force at 1.2.1993 see S.I. 1992/3253, art. 3.

Status: Point in time view as at 01/10/2006.

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115 Rights of entry and inspection.

- (1) An inspector may, on production (if so required) of his authority, exercise any of the powers specified in subsection (3) below for the purposes of the discharge of the functions of the Secretary of State under this Part.
- (2) Those powers are exercisable—
 - (a) in relation to premises—
 - (i) on which the inspector has reason to believe a person is keeping or has kept any genetically modified organisms, or
 - (ii) from which he has reason to believe any such organisms have been released or have escaped; and
 - (b) in relation to premises on which the inspector has reason to believe there may be harmful genetically modified organisms or evidence of damage to the environment caused by genetically modified organisms;

but they are not exercisable in relation to premises used wholly or mainly for domestic purposes.
- (3) The powers of an inspector are—
 - (a) at any reasonable time (or, in a situation in which in his opinion there is an immediate risk of damage to the environment, at any time)—
 - (i) to enter premises which he has reason to believe it is necessary for him to enter and to take with him any person duly authorised by the Secretary of State and, if the inspector has reasonable cause to apprehend any serious obstruction in the execution of his duty, a constable; and
 - (ii) to take with him any equipment or materials required for any purpose for which the power of entry is being exercised;
 - (b) to carry out such tests and inspections (and to make such recordings), as may in any circumstances be necessary;
 - (c) to direct that any, or any part of, premises which he has power to enter, or anything in or on such premises, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any test or inspection;
 - (d) to take samples of any organisms, articles or substances found in or on any premises which he has power to enter, and of the air, water or land in, on, or in the vicinity of, the premises;
 - (e) in the case of anything found in or on any premises which he has power to enter, which appears to him to contain or to have contained genetically modified organisms which have caused or are likely to cause damage to the environment, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary);
 - (f) in the case of anything mentioned in paragraph (e) above or anything found on premises which he has power to enter which appears to be a genetically modified organism or to consist of or include genetically modified organisms, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
 - (i) to examine it and do to it anything which he has power to do under that paragraph;
 - (ii) to ensure that it is not tampered with before his examination of it is completed; and

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- (iii) to ensure that it is available for use as evidence in any proceedings for an offence under section 118 below;
- (g) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any test or inspection under this subsection to answer (in the absence of persons other than a person nominated to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers;
- (h) to require the production of, or where the information is recorded in computerised form, the furnishing of extracts from, any records which are required to be kept under this Part or it is necessary for him to see for the purposes of any test or inspection under this subsection and to inspect, and take copies of, or of any entry in, the records;
- (i) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on him by this section;
- (j) any other power for the purpose mentioned in subsection (1) above which is conferred by regulations made by the Secretary of State.
- (4) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of, and the dealing with, samples under subsection (3)(d) above.
- (5) Where an inspector proposes to exercise the power conferred by subsection (3)(e) above, he shall, if so requested by a person who at the time is present on and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.
- (6) Before exercising the power conferred by subsection (3)(e) above, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under the power.
- (7) Where under the power conferred by subsection (3)(f) above an inspector takes possession of anything found on any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars sufficient to identify what he has seized and stating that he has taken possession of it under that power; and before taking possession under that power of—
- (a) any thing that forms part of a batch of similar things, or
- (b) any substance,
- an inspector shall, if it is practical and safe for him to do so, take a sample of it and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.
- (8) No answer given by a person in pursuance of a requirement imposed under subsection (3)(g) above shall be admissible in evidence—
- (a) in any proceedings in England and Wales against that person; or
- (b) in any criminal proceedings in Scotland against that person.
- (9) The powers conferred by subsection (3)(a), (b), (c), (d), (e) and (h) above shall also be exercisable (subject to subsections (4), (5) and (6) above) by any person authorised for the purpose in writing by the Secretary of State.

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- (10) Nothing in this section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, in relation to Scotland, on an order for the production of documents in an action in the Court of Session.

Commencement Information

- I2** S. 115 wholly in force; not in force at Royal Assent see s. 164(2); s. 115(4) in force 1.4.1991 see s. 164(3) and S.I. 1991/1042, art. 2; s. 115(1)-(3)(5)-(10) in force at 1.2.1993 see S.I. 1992/3253, art. 3.

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