

# NATURAL ENVIRONMENT AND RURAL COMMUNITIES ACT 2006

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 3: Wildlife etc.**

#### **Pesticides harmful to wildlife**

#### ***Section 44: Enforcement powers in connection with pesticides***

120. The inspectors on whom the enforcement powers under this section are conferred will be authorised by the Secretary of State (in England) or the National Assembly for Wales (in Wales).
121. Under *subsection (1)* inspectors may enter premises to check if persons have a pesticide containing a prescribed ingredient in storage without any lawful use for it if they have reasonable grounds to suspect that they may find evidence of an offence. This power could be used where there have been reports of poisoning wild birds or animals in a neighbourhood and an inspector wishes to check for possession of such pesticides in that neighbourhood. The inspector can require the disclosure of information under (1) (b) about any substance that he finds.
122. *Subsection (4)* applies most of the enforcement provisions of Schedule 2 to FEPA to the enforcement of the offence in section 43. This is particularly significant in connection with the power of entry conferred by subsection (1)(a) of section 44. Under paragraph 7 of Schedule 2 to FEPA, an inspector may enter a dwelling only if a justice of the peace has issued a warrant authorising him to do so. Such warrant will only be issued in certain prescribed circumstances as listed in that Schedule (for instance, where it is not possible to communicate with any person entitled to grant entry to the dwelling).
123. Authorised inspectors using enforcement powers under paragraph 2 of Schedule 2 to FEPA may bring with them other persons and any equipment or materials to assist them in performing their functions. They must only operate at reasonable hours. Additionally they will be able to use reasonable force to perform their functions (for example in opening containers). They can photograph evidence. Related offences are provided for under paragraph 10 of the FEPA Schedule. These include supplying false information to an inspector and obstructing an inspector who is performing his duties.
124. By virtue of *subsection (1)(c)* an inspector can seize any substance that he has reasonable grounds to believe to be a pesticide containing a prescribed ingredient. This power could be used to take a sample for analysis, or to take the whole of the substance away.
125. *Subsections (5) to (8)* provide safeguards in connection with seizure and a procedure for recovery of the seized substance if proceedings are not brought or after the completion of any criminal proceedings.