

ANIMAL HEALTH AND WELFARE (SCOTLAND) ACT 2006

EXPLANATORY NOTES

SCHEDULES

Schedule 1 – Powers of inspectors and constables for Part 2

239. This schedule specifies the powers and duties of those exercising powers of entry, inspection or search under Part 2 of the Act and provides clarification on conditions for granting warrants, stopping and detaining vehicles, and offences of obstruction.
240. [Paragraph 1\(1\)](#) provides power for an inspector to enter and inspect any premises to ascertain compliance with any regulations made under Part 2 of this Act which implements a European Community obligation. However this does not apply in relation to domestic premises.
241. [Paragraph 2](#) makes provision in relation to entry and search where animals are in distress. It allows for an inspector or a constable to enter and search premises for the purpose of exercising any power conferred by section 32 (taking possession of animals) and section 35 (resort to destruction of animals) without a warrant if this is in the immediate interest of the animal. However this does not apply to domestic premises.
242. [Paragraph 2\(1\)](#) provides for the granting of warrants where there are reasonable grounds for believing that there is on the premises a protected animal which is suffering or likely to suffer if its circumstances do not change. It refers to paragraph 5 which outlines the specific conditions.
243. [Paragraph 3](#) provides that an inspector may enter and inspect any premises under Part 2 (apart from domestic premises) if there are reasonable grounds for believing an offence has been committed at the premises.
244. [Paragraph 4](#) provides that a sheriff or justice of the peace may grant a warrant if satisfied that there are reasonable grounds for believing that a relevant offence has been committed at the premises or that evidence of the commission of or participation in a relevant offence is to be found at the premises. An inspector or constable may enter premises and search without a warrant to gather evidence in relation to a relevant offence if it appears that delay would frustrate the purpose for which the search is to be carried out. It also sets out what that warrant would allow an inspector or constable to do. A relevant offence is defined as any offence under sections 19 to 23, section 24, section 29 and section 40(11).
245. [Paragraph 5](#) sets out conditions for granting warrants under Part 2.
246. [Paragraph 6](#) provides that a constable in uniform, or an inspector accompanied by a constable in uniform, can stop a vehicle in order to exercise a relevant power.
247. [Paragraph 8](#) provides that any relevant power should be exercised at a reasonable time unless that would frustrate the purpose of exercising that power.

*These notes relate to the Animal Health and Welfare (Scotland)
Act 2006 (asp 11) which received Royal Assent on 11 July 2006*

248. Paragraph 11(1) provides that assistance and equipment may be taken onto premises in order to exercise the relevant power. This could include being accompanied by an Agricultural Officer or bringing a trailer etc. onto premises to assist in the transportation of relevant animals.
249. Paragraph 11(3) provides that the powers under this paragraph include carrying out tests and identifying animals.
250. Paragraph 14 and 15 provide clarification on the offences of obstruction.
251. Paragraph 16 provides that a constable may arrest without a warrant any person the constable believes to be committing or to have committed an offence under the following sections in Part 2: Unnecessary suffering (section 19); Mutilation (section 20); Cruel Operations (Section 21); Administration of poisons etc. (Section 22); Animal Fights (Section 23); or under paragraphs 14 or 15 of schedule 1– Offences of obstruction.
252. Paragraph 18 defines a “relevant power” for the purposes of the schedule.

Schedule 2 – Modification of enactments

253. This schedule provides the detailed modifications of existing enactments which are required as a result of this Act.
254. Paragraphs 1 to 4 make amendments to the Animal Health Act 1981 required or consequential to Part 1 of the Act, including widening the definition of animals and the definition of disease in various sections of the 1981 Act.
255. Paragraphs 5 to 8 make minor amendments to existing legislation such as the Protection of Animals (Scotland) Act 1912, the Protection of Animals (Anaesthetics) Act 1954 and Part I of the Agriculture (Miscellaneous Provisions) Act 1968 which are required by Part 2 of the Act.
256. Paragraph 9 provides a list of the legislation which will be repealed as a consequence of Part 2 or regulations made under Part 2 of the Act.