

Changes to legislation: There are currently no known outstanding effects for the Animal Health and Welfare (Scotland) Act 2006. (See end of Document for details)

SCHEDULE 1

(introduced by section 49(7))

POWERS OF INSPECTORS AND CONSTABLES FOR PART 2

Entry and inspection in connection with [^{F1}an obligation under [^{F2}assimilated] law]

Textual Amendments

- F1** Words in sch. 1 para. 1 cross-heading substituted (31.12.2020) by The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/34), regs. 1, **2(2)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in sch. 1 para. 1 cross-heading substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 6(a)**

- 1 (1) An inspector may enter and inspect any premises for the purpose of ascertaining compliance with any regulations made under Part 2 which implement [^{F3}an][^{F4}obligation under [^{F5}assimilated] law].
- (2) Sub-paragraph (1) does not apply in relation to domestic premises.

Textual Amendments

- F3** Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), **arts. 3, 6** (with art. 3(2)(3)4(2)6(4)6(5))
- F4** Words in sch. 1 para. 1(1) substituted (31.12.2020) by The Animal Welfare (EU Exit) (Scotland) (Amendment) Regulations 2019 (S.S.I. 2019/34), regs. 1, **2(2)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Word in sch. 1 para. 1(1) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendments) (Scotland) Regulations 2023 (S.S.I. 2023/374), reg. 1(1), **sch. 1 para. 6(b)**

Commencement Information

- I1** Sch. 1 para. 1 in force at 6.10.2006 by S.S.I. 2006/482, **art. 2**

Entry and search where animals in distress

- 2 (1) A sheriff or justice of the peace may grant a warrant under this sub-paragraph if satisfied—
- (a) that there are reasonable grounds for believing that there is at premises a protected animal which—
- (i) is suffering, or
- (ii) is likely to suffer if its circumstances do not change, and
- (b) that paragraph 5 is complied with in relation to the premises.
- (2) A warrant under sub-paragraph (1) authorises an inspector or a constable to enter and search the premises for the purpose of exercising any power conferred by sections 32 and 35.
- (3) An inspector or a constable may—
- (a) enter and search premises for the purpose of exercising any power conferred by sections 32 and 35, and

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(b) do so without a warrant under sub-paragraph (1),
 if it appears that immediate entry is appropriate in the interests of an animal.

(4) Sub-paragraph (3) does not apply in relation to domestic premises.

Commencement Information

I2 Sch. 1 para. 2 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

Entry and inspection in connection with offences

3 (1) An inspector may, if there are reasonable grounds for believing that an offence under Part 2 has been committed at premises, enter and inspect the premises for the purpose of ascertaining whether or not an offence under that Part has been committed there.

(2) Sub-paragraph (1) does not apply in relation to domestic premises.

Commencement Information

I3 Sch. 1 para. 3 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

Entry and search etc. in connection with offences

4 (1) A sheriff or justice of the peace may grant a warrant under this sub-paragraph if satisfied—

- (a) that there are reasonable grounds for believing—
 - (i) that a relevant offence has been committed at premises, or
 - (ii) that evidence of the commission of, or participation in, a relevant offence is to be found at premises, and
- (b) that paragraph 5 is complied with in relation to the premises.

(2) A warrant under sub-paragraph (1) authorises an inspector or a constable to—

- (a) enter the premises, and
- (b) search for, examine and seize any animal (including the carcase of an animal), equipment, document or other thing tending to provide evidence of the commission of, or participation in, a relevant offence.

(3) An inspector or a constable may—

- (a) enter premises and search for, examine and seize any animal (including the carcase of an animal), equipment, document or other thing tending to provide evidence of the commission of, or participation in, a relevant offence, and
- (b) do so without a warrant under sub-paragraph (1),

if it appears that delay would frustrate the purpose for which the search is to be carried out.

(4) Sub-paragraph (3) does not apply in relation to domestic premises.

(5) In this paragraph, a “relevant offence” is—

- (a) an offence under sections 19 to 23,
- (b) an offence under section 24,
- (c) an offence under section 29,

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- (d) an offence under section 40(11).

Commencement Information

I4 Sch. 1 para. 4 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

Conditions for granting warrants

- 5 (1) This paragraph is complied with in relation to premises if either of the conditions specified in sub-paragraphs (2) and (3) is met.
- (2) The condition is—
- (a) that—
- (i) admission to the premises has been refused, or
- (ii) such a refusal may reasonably be expected, and
- (b) that—
- (i) notice of the intention to seek a warrant has been given to the occupier of the premises, or
- (ii) the giving of such notice would frustrate the purpose for which the warrant is sought.
- (3) The condition is that the premises are unoccupied or the occupier is temporarily absent.

Commencement Information

I5 Sch. 1 para. 5 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

Stopping and detaining vehicles etc.

- 6 (1) A constable in uniform may stop and detain a vehicle or vessel for the purpose of the exercise of a relevant power.
- (2) An inspector, if accompanied by a constable in uniform, may stop and detain a vehicle or vessel for the purpose of the exercise of a relevant power.
- (3) A vehicle or vessel may be detained under sub-paragraph (1) or (2) for as long as is reasonably required for the exercise of the power concerned.
- (4) The power concerned may be exercised either at the place where the vehicle or vessel was first detained or nearby.

Commencement Information

I6 Sch. 1 para. 6 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

Entry and search etc.: supplementary

- 7 A warrant granted under a provision of this schedule remains in force for one month beginning with the date on which it was granted.

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Commencement Information

I7 Sch. 1 para. 7 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 8 (1) A relevant power is exercisable only at a reasonable time.
- (2) Sub-paragraph (1) does not apply if it appears that exercise of the power at a reasonable time would frustrate the purpose of exercising the power.

Commencement Information

I8 Sch. 1 para. 8 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 9 (1) A relevant power is exercisable, if necessary, by using reasonable force.
- (2) Sub-paragraph (1) does not apply to a power conferred by paragraph 1 or 3.

Commencement Information

I9 Sch. 1 para. 9 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 10 A person exercising a relevant power must, if required, produce evidence of the person's authority.

Commencement Information

I10 Sch. 1 para. 10 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 11 (1) A relevant power includes power to take onto premises—
- (a) such persons for assistance, and
 - (b) such equipment,
- as are required for the purpose of the exercise of the power.
- (2) A relevant power includes power to secure the taking of any of the steps mentioned in sub-paragraph (3).
- (3) Those steps are—
- (a) carrying out tests on, and taking samples from—
 - (i) an animal (including a carcass of an animal),
 - (ii) any equipment, substance or other thing,
 - (b) using a mark, microchip or another method of identifying an animal.

Commencement Information

I11 Sch. 1 para. 11 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

- 12 (1) A qualifying person must—
- (a) comply with any reasonable direction made by a person exercising a relevant power, and

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- (b) in particular, give that person such information and assistance as that person reasonably requires.
- (2) In sub-paragraph (1), a “qualifying person” is—
- (a) the occupier of premises in relation to which a relevant power is being exercised,
 - (b) a person who appears to be responsible for animals at the premises,
 - (c) a person who appears to be under the direction or control of a person referred to in paragraph (a) or (b).

Commencement Information

I12 Sch. 1 para. 12 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

- 13 A person exercising a relevant power in relation to unoccupied premises must leave the premises as effectively secured against entry as the person found them.

Commencement Information

I13 Sch. 1 para. 13 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

Offences of obstruction

- 14 (1) A person commits an offence if, without reasonable excuse, the person contravenes paragraph 12(1).
- (2) A person commits an offence if the person intentionally obstructs a person in the exercise of a relevant power.

Commencement Information

I14 Sch. 1 para. 14 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

- 15 (1) A person commits an offence if the person intentionally obstructs a person in the exercise of a power conferred by—
- (a) section 32,
 - (b) an order under section 34(1),
 - (c) section 35.
- (2) A person commits an offence if the person intentionally obstructs a person in the carrying out of—
- (a) a deprivation order,
 - (b) a seizure order,
 - (c) an interim order under section 41(9) or 43(5).

Commencement Information

I15 Sch. 1 para. 15 in force at 6.10.2006 by [S.S.I. 2006/482](#), [art. 2](#)

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Powers of constables: supplementary

^{F6}16

Textual Amendments

F6 Sch. 1 para. 16 repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 20(a)**; S.S.I. 2017/345, art. 3, sch.

Commencement Information

I16 Sch. 1 para. 16 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

17 The powers conferred on constables by this schedule are without prejudice to any powers conferred on constables by law apart from this schedule.

Commencement Information

I17 Sch. 1 para. 17 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

Interpretation

18 In this schedule, a “relevant power” is a power—

- (a) conferred on an inspector by—
 - (i) a provision of this schedule, or
 - (ii) a warrant granted under a provision of this schedule,
- (b) conferred on a constable by—
 - (i) a provision of this schedule ^{F7}..., or
 - (ii) a warrant granted under a provision of this schedule.

Textual Amendments

F7 Words in [sch. 1 para. 18\(b\)\(i\)](#) repealed (25.1.2018) by [Criminal Justice \(Scotland\) Act 2016 \(asp 1\)](#), s. 117(2), **sch. 2 para. 20(b)**; S.S.I. 2017/345, art. 3, sch.

Commencement Information

I18 Sch. 1 para. 18 in force at 6.10.2006 by [S.S.I. 2006/482](#), **art. 2**

SCHEDULE 2

(introduced by section 52)

MODIFICATION OF ENACTMENTS

Animal health provisions

1 In section 8 (movement generally) of the Animal Health Act 1981 (c. 22)—

- (a) in paragraph (e) of subsection (1), for the words “the holding of markets, fairs, exhibitions and sales of animals” there is substituted “ animal gatherings ”,

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(b) after that subsection there is inserted—

“(1A) In subsection (1)(e), “animal gatherings” has the same meaning as it has in section 8A.”.

Commencement Information

I19 Sch. 2 para. 1 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

- 2 (1) In section 22 (powers of entry etc. for section 21) of that Act, subsection (5) is repealed.
- (2) In section 27 (exclusion of strangers) of that Act—
- (a) in subsection (1), after the word “animals” in each place where it occurs there is inserted “, birds or amphibians ”,
- (b) after subsection (2) there is added—
- “(3) In this section—
“animals” means any kind of mammal (except man);
“disease” is not restricted by its definition in this Act.”.
- (3) In section 33 (additional staff and expenses) of that Act—
- (a) the existing words become subsection (1),
- (b) in that subsection, after the word “animals,” there is inserted “ birds or amphibians, ”,
- (c) after that subsection there is inserted—
- “(2) In this section, “animals” means any kind of mammal (except man).”.
- (4) In section 34 (slaughter and compensation generally) of that Act—
- (a) after the word “animal” in each place where it occurs there is inserted “ , bird or amphibian ”,
- (b) in subsection (7), in paragraph (c), after the word “animals” there is inserted “ , birds or amphibians ”,
- (c) after that subsection there is added—
- “(8) In this section—
“animal” means any kind of mammal (except man);
“disease” is not restricted by its definition in this Act.”.
- (5) In section 60 (duties and authorities of constables) of that Act—
- (a) in subsection (1), after the word “Act” there is inserted “ , regulations made by the Scottish Ministers under this Act ”,
- (b) in subsection (5)—
- (i) for the words “other officer” there is substituted “ inspector ”,
- (ii) for the word “officer” in the second place where it occurs there is substituted “ inspector ”,
- (iii) after paragraph (b) there is inserted—
- “(ba) of regulations made by the Scottish Ministers under this Act.”.

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- (6) In section 63 (general powers of inspectors) of that Act—
- (a) in subsection (2), after paragraph (b) there is inserted—
 - “(ba) that the carcase of an animal, bird or amphibian slaughtered by virtue of section 16B, Part 2B or Schedule 3A is or has been kept, or has been buried, destroyed, or otherwise disposed of; or”,
 - (b) in subsection (2)(c), after the word “Minister,” there is inserted “ or of a regulation of the Scottish Ministers under this Act, ”,
 - (c) in subsection (2)(d), after the word “Minister” there is inserted “ or a regulation of the Scottish Ministers under this Act ”,
 - (d) in subsection (3), after the word “Minister” there is inserted “ or a regulation of the Scottish Ministers under this Act ”,
 - (e) in subsection (7), after the word “animal” there is inserted “ , bird or amphibian ”,
 - (f) after that subsection there is inserted—
 - “(7A) In subsection (7)—
 - “animal” means any kind of mammal (except man);
 - “disease” is not restricted by its definition in this Act.”,
 - (g) after subsection (9) there is added—
 - “(10) An inspector acting under this section must, if required, produce evidence of the inspector's authority.”.
- (7) In section 64 (powers of inspectors as to poultry) of that Act, after subsection (2) there is added—
- “(3) An inspector acting under this section must, if required, produce evidence of the inspector's authority.”.
- (8) In section 65(1) (power to detain vessels and aircraft) of that Act, after the word “Minister” in the second place where it occurs, there is inserted “ or a regulation of the Scottish Ministers under this Act ”.
- (9) In section 66(a) (refusal and obstruction) of that Act, after the word “Minister,” there is inserted “ or of regulations made by the Scottish Ministers under this Act, ”.

Commencement Information

I20 Sch. 2 para. 2 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

- 3 (1) In section 73(a) (general offences) of that Act, after the word “Minister,” there is inserted “ or of regulations made by the Scottish Ministers under this Act, ”.
- (2) In section 79 (evidence and procedure) of that Act—
- (a) in subsection (2), after the word “animal” in each place where it occurs there is inserted “ , bird or amphibian ”,
 - (b) after that subsection there is inserted—
 - “(2A) In subsection (2)—
 - “animal” means any kind of mammal (except man);
 - “disease” is not restricted by its definition in this Act.”,

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- (c) in subsection (4), after the word “Minister” there is inserted “ or regulations made by the Scottish Ministers under this Act ”.

Commencement Information

I21 Sch. 2 para. 3 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

- 4 In section 91 (orders etc.) of that Act, subsection (2) is repealed.

Commencement Information

I22 Sch. 2 para. 4 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

Animal welfare provisions

- 5 The Protection of Animals (Scotland) Act 1912 (c. 14), except—
(a) section 7 (poisoned grain and flesh etc.), and
(b) sections 13(a) to (d), 14 and 16 (general provisions),
is repealed.

Commencement Information

I23 Sch. 2 para. 5 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

PROSPECTIVE

- 6 In the Docking and Nicking of Horses Act 1949 (c. 70), section 1 is repealed.

- 7 In the Protection of Animals (Anaesthetics) Act 1954 (c. 46), in section 1 (use of anaesthetics in operations on animals)—
(a) after subsection (1) there is inserted—
 “(1A) An operation to which this section applies that is performed on an animal without the use of an anaesthetic administered so as to prevent pain during the operation is, for the purposes of section 21 of the Animal Health and Welfare (Scotland) Act 2006 (asp 11), to be regarded as being performed without due care and humanity.”,
(b) in subsection (5), paragraph (b) and the word “ and ” immediately preceding it are repealed.

Commencement Information

I24 Sch. 2 para. 7 in force at 6.10.2006 by S.S.I. 2006/482, art. 2

- 8 (1) Part I of the Agriculture (Miscellaneous Provisions) Act 1968 (c. 34), except—
(a) section 4 (expenditure on free advice on the welfare of livestock),
(b) section 5 (extension of classes of operations in which anaesthetics must be used), and
(c) in section 8 (interpretation etc. of Part I)—

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(i) in subsection (1), the definition of “livestock”, and
 (ii) subsection (3) so far as relating to those sections,
 is repealed.

(2) In the Animal Health Act 1981, sections 37 to 39 are repealed.

Commencement Information

I25 Sch. 2 para. 8 in force at 6.10.2006 by S.S.I. 2006/482, art. 2 (with art. 4(2)(3))

- 9 The whole of each of the following Acts is repealed—
- (a) the Protection of Animals (Scotland) Act 1912 Amendment Act 1921 (c. 22),
 - (b) the Performing Animals (Regulation) Act 1925 (c. 38),
 - (c) the Protection of Animals Act 1934 (c. 21),
 - (d) the Pet Animals Act 1951 (c. 35),
 - (e) the Cockfighting Act 1952 (c. 59),
 - (f) the Protection of Animals (Amendment) Act 1954 (c. 40),
 - (g) the Abandonment of Animals Act 1960 (c. 43),
 - (h) the Animal Boarding Establishments Act 1963 (c. 43),
 - (i) the Riding Establishments Act 1964 (c. 70),
 - (j) the Riding Establishments Act 1970 (c. 32),
 - (k) the Breeding of Dogs Act 1973 (c. 60),
 - (l) the Pet Animals Act 1951 (Amendment) Act 1983 (c. 26),
 - (m) the Protection of Animals (Amendment) Act 1988 (c. 29),
 - (n) the Breeding of Dogs Act 1991 (c. 64),
 - (o) the Protection of Animals (Scotland) Act 1993 (c. 15),
 - (p) the Breeding and Sale of Dogs (Welfare) Act 1999 (c. 11)

Commencement Information

- I26** Sch. 2 paras. 9(a)(c)(e)-(g)(m)(o) in force at 6.10.2006 by S.S.I. 2006/482, art. 2
I27 Sch. 2 para. 9(d) in force at 6.10.2006 for specified purposes by S.S.I. 2006/482, art. 3
I28 Sch. 2 para. 9(d) in force at 1.9.2021 in so far as not already in force by S.S.I. 2020/464, art. 2 (with art. 3)
I29 Sch. 2 para. 9(k)(l)(n)(p) in force at 1.9.2021 by S.S.I. 2020/464, art. 2 (with art. 3)

Changes to legislation:

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