

SCHEDULE 1

(introduced by section 49(7))

POWERS OF INSPECTORS AND CONSTABLES FOR PART 2

Entry and inspection in connection with Community obligations

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

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
 - (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.

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.

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.

Status: This is the original version (as it was originally enacted).

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

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.

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.

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.
- 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.
- 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.
- 10 A person exercising a relevant power must, if required, produce evidence of the person's authority.
- 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 carcase of an animal),
(ii) any equipment, substance or other thing,
(b) using a mark, microchip or another method of identifying an animal.
- 12 (1) A qualifying person must—
(a) comply with any reasonable direction made by a person exercising a relevant power, and
(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).
- 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.

Offences of obstruction

- 14 (1) A person commits an offence if, without reasonable excuse, the person contravenes paragraph 12(1).

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- (2) A person commits an offence if the person intentionally obstructs a person in the exercise of a relevant power.
- 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).

Powers of constables: supplementary

- 16 A constable may arrest without warrant any person whom the constable reasonably believes is committing or has committed an offence under—
- (a) sections 19 to 23, or
 - (b) paragraph 14 or 15.
- 17 The powers conferred on constables by this schedule are without prejudice to any powers conferred on constables by law apart from this schedule.

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 except paragraph 16, or
 - (ii) a warrant granted under a provision of this schedule.

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”,
 - (b) after that subsection there is inserted—
 - “(1A) In subsection (1)(e), “animal gatherings” has the same meaning as it has in section 8A.”.

- 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.*”.
- (6) In section 63 (general powers of inspectors) of that Act—
- (a) in subsection (2), after paragraph (b) there is inserted—
“*(ba) that the carcass 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,”,

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- (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.”.
- 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.”,
 - (c) in subsection (4), after the word “Minister” there is inserted “or regulations made by the Scottish Ministers under this Act”.
- 4 In section 91 (orders etc.) of that Act, subsection (2) is repealed.

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.
- 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.
- 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)—
 - (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.
- 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)