



2010 CHAPTER 1

Enforcement

Powers of entry

- 4.—(1) In Article 46 of the 1981 Order (general powers of inspectors)—
- (a) in paragraph (2)—
 - (i) for “land, building, shed, pen or place” substitute “ premises ”;
 - (ii) in sub-paragraph (a)(iii) for “pen, place, vehicle or thing” substitute “ pen, place, receptacle, container or thing or ship, vessel, boat, aircraft, hovercraft or vehicle of any other description ”;
 - (b) after paragraph (2) insert—
 - “(2A) An inspector may at all reasonable times enter premises—
 - (a) for the purpose of—
 - (i) ascertaining whether a power conferred by or under this Order to cause an animal or bird to be slaughtered should be exercised;
 - (ii) doing anything in the exercise of that power;
 - (b) for the purpose of exercising any power conferred by Article 11.
 - (2B) An inspector may at all reasonable times enter premises for the purpose of ascertaining—
 - (a) the identity of any animal or bird;
 - (b) whether an immune response exists in animals or poultry on the premises;
 - (c) whether any animal or bird on the premises or which was kept there at any time is, or was at that time, infected with disease;

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- (d) whether any causative agent of disease in animals or poultry is present on the premises.
- (2C) An inspector may at all reasonable times enter premises for the purpose of—
 - (a) carrying out any function he has under or in pursuance of Part 2A, or
 - (b) ascertaining whether any such function should be exercised.”;
- (c) in paragraph (3)(c) omit “, vessel, or aircraft”;
- (d) in paragraph (4), for the words from “pen” to the end of that paragraph substitute “ premises ”;
- (e) in paragraph (5) for “land, building, place, pen, vehicle, vessel, boat or aircraft” substitute “ premises ”;
- (f) after paragraph (5) insert—
 - “(5A) Paragraphs (1) to (4) do not apply to any premises used exclusively as a dwelling-house unless 24 hours' notice of the intended entry is given to the occupier of the premises.”;
- (g) in paragraphs (7)(a)(i) and (7A)(a)(i) for “land, building, place, pen, vehicle, vessel, boat or aircraft” substitute “ premises ”;
- (h) for paragraph (7B) substitute—
 - “(7B) In this Article “causative agent” includes any virus, bacterium, and any other organism or infectious substance or particle which may cause or transmit disease.”.
- (2) In Article 46A of the 1981 Order (powers of inspectors relating to Community obligations), in paragraph (a), for the words from “enter” to “for” substitute “ enter premises for ”.
- (3) After Article 46A of the 1981 Order insert—

“Powers of entry: warrants

46B.—(1) If a lay magistrate is satisfied by complaint on oath that the first condition is satisfied and that the second or third condition is satisfied the lay magistrate may issue a warrant authorising an inspector to enter any premises, if necessary using reasonable force, for any of the purposes mentioned in Article 46, 46A or 47A.

- (2) The complaint shall include—
 - (a) a statement as to whether any representations have been made by the occupier of the premises to an inspector concerning the purpose for which the warrant is sought;
 - (b) a summary of any such representations.

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(3) The first condition is that there are reasonable grounds for an inspector to enter the premises for that purpose.

(4) The second condition is that the occupier of the premises—

(a) has been informed of the decision to seek entry to the premises and of the reasons for that decision;

(b) has failed to allow entry to the premises on being requested to do so by an inspector; and

(c) has been informed of the decision to apply for the warrant.

(5) The third condition is that—

(a) the premises are unoccupied or the occupier is absent and (in either case) notice of intention to apply for the warrant has been left in a conspicuous place on the premises; or

(b) an application for admission to the premises or the giving of notice of intention to apply for the warrant would defeat the object of entering the premises.

(6) A warrant issued under this Article remains in force for one month starting with the date of its approval by the lay magistrate, which date shall be clearly visible on the warrant.

(7) A warrant issued under this Article shall be executed only at a reasonable hour unless the inspector thinks that the case is one of urgency.

(8) In relation to any premises to which entry is obtained by virtue of a warrant under this Article the Department shall retain for a period of not less than 3 years beginning with the day after entry—

(a) a copy of the warrant;

(b) a copy of any record of the steps taken to effect entry to the premises and the actions taken on the premises by the inspector and any other person entering the premises with the inspector.

Powers of entry: supplementary provisions

46C.—(1) This Article applies to an inspector who enters any premises by virtue of Article 46, 46A or 47A or under a warrant issued under Article 46B.

(2) The inspector may take with him—

(a) such other persons as he thinks necessary to give him such assistance as he thinks necessary;

(b) such equipment as he thinks necessary.

(3) The inspector may require any person on the premises who falls within paragraph (5) to give such assistance and provide such facilities as the inspector may reasonably require for the purposes mentioned in Article 46, 46A or 47A, as the case may be.

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(4) The inspector may require any person who falls within paragraph (5) to provide his name and address.

(5) The following persons fall within this paragraph—

- (a) the owner or occupier of the premises;
- (b) a person appearing to the inspector to be the owner of, or have charge of, animals or poultry on the premises;
- (c) a person appearing to the inspector to be under the direction or control of a person mentioned in sub-paragraph (a) or (b).

(6) An inspector who enters any premises by virtue of Article 46 or 46A or under a warrant issued under Article 46B may take such samples (including samples from any animal or bird on the premises) and carry out such tests and procedures as he thinks necessary.

(7) An inspector who enters any premises by virtue of Article 46, 46A or 47A or under a warrant issued under Article 46B may—

- (a) inspect any records (in whatever form they are held) relating to the keeping, acquisition or disposal of animals or poultry;
- (b) seize and detain any records which he reasonably thinks may be needed as evidence in any proceedings under or by virtue of this Order.

(8) If the inspector enters any premises by virtue of a warrant issued under Article 46B he shall at the time of entry—

- (a) serve a copy of the warrant on the occupier of the premises; or
- (b) if the occupier is not on the premises, leave a copy of the warrant in a conspicuous place on the premises.

(9) An inspector who enters any premises by virtue of Article 46, 46A or 47A or under a warrant issued under Article 46B shall, if required, produce evidence of his authority to act under the relevant Article.

(10) If the inspector enters any unoccupied premises he must leave them as effectively secured against entry as he found them.

(11) Without prejudice to the generality of Article 52(1)(b), a person commits an offence if—

- (a) he is required to give assistance, or provide facilities, under paragraph (3); and
- (b) he fails to give that assistance or provide those facilities.

Powers of entry under warrant: code of practice

46D.—(1) An inspector who enters any premises by virtue of a warrant issued under Article 46B shall comply with a code of practice which has been published under paragraph (4) and has not been withdrawn.

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(2) The Department shall prepare a code of practice in connection with the exercise by inspectors of a power of entry conferred by virtue of a warrant issued under Article 46B.

(3) After preparing a draft of the code the Department—

(a) shall publish the draft in such manner as it thinks appropriate and invite representations regarding the draft;

(b) shall consider any representations made to it regarding the draft; and

(c) may amend the draft accordingly.

(4) After the Department has proceeded under paragraph (3) it shall publish the code in such manner as it thinks appropriate.

(5) The Department shall from time to time review the code and if it thinks it appropriate revise the code.

(6) Paragraphs (2) to (4) apply to a revision of the code as they apply to its preparation.”

(4) In Article 52 of the 1981 Order (offences), in paragraph (1)(b), for “land, building, place, vessel, aircraft, pen, vehicle, or boat” substitute “ premises ”.

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