

SCHEDULES

SCHEDULE 5

Section 52

ENFORCEMENT POWERS IN CONNECTION WITH WILDLIFE

PART 1

AMENDMENTS OF THE WILDLIFE AND COUNTRYSIDE ACT 1981

1 After section 18 insert—

“18A Wildlife inspectors

- (1) In this Part, “wildlife inspector” means a person authorised in writing under this section by—
 - (a) the Secretary of State (in relation to England), or
 - (b) the National Assembly for Wales (in relation to Wales).
- (2) An authorisation under subsection (1) is subject to any conditions or limitations specified in it.
- (3) A wildlife inspector must, if required to do so, produce evidence of his authority before entering any premises under section 18B or 18D.
- (4) A wildlife inspector entering premises under either of those sections may take with him a veterinary surgeon if he has reasonable grounds for believing that such a person will be needed for the exercise of powers under section 18C or 18E.

18B Group 1 offences and licences: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
 - (a) for the purpose of ascertaining whether a Group 1 offence is being or has been committed;
 - (b) for the purpose of—
 - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 1 licence, or
 - (ii) ascertaining whether any condition to which a Group 1 licence was subject has been complied with.
- (2) In this Part—

“Group 1 offence” means an offence under section 1, 5, 9(1), (2) or (4), 11, 13(1) or 14ZA, and

Status: This is the original version (as it was originally enacted).

“Group 1 licence” means a licence authorising anything which would otherwise be a Group 1 offence.

- (3) Nothing in this section confers power to enter a dwelling.

18C Group 1 offences and licences: examining specimens and taking samples

- (1) The powers conferred by this section are exercisable where a wildlife inspector has entered any premises for a purpose mentioned in section 18B(1)(a) or (b).
- (2) The inspector, or a veterinary surgeon accompanying him, may—
- (a) for any such purpose, examine any specimen, and
 - (b) subject to subsection (5) and section 18F, take a sample from it.
- (3) “Specimen” means—
- (a) any bird, other animal or plant, or
 - (b) any part of, or anything derived from, a bird, other animal or plant.
- (4) “Sample” means a sample of blood, tissue or other biological material.
- (5) No sample may be taken under subsection (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.
- (6) The inspector may require an occupier of the premises to give such assistance as is reasonable in the circumstances for the purpose of—
- (a) making an examination under subsection (2)(a), or
 - (b) taking a sample under subsection (2)(b).
- (7) The inspector may take and remove from the premises a specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing that it is evidence of a Group 1 offence.

18D Group 2 offences and licences etc.: power to enter premises

- (1) A wildlife inspector may, at any reasonable time, enter and inspect any premises—
- (a) for the purpose of ascertaining whether an offence under section 6, 9(5) or 13(2) is being, or has been, committed on those premises;
 - (b) where he has reasonable cause to believe that any birds included in Schedule 4 are kept, for the purpose of ascertaining whether an offence under section 7 is being, or has been, committed on those premises;
 - (c) for the purpose of ascertaining whether an offence under section 14 is being, or has been, committed on those premises;
 - (d) for the purpose of—
 - (i) verifying any statement or representation made, or document or information supplied, by an occupier in connection with an application for, or the holding of, a Group 2 licence or a relevant registration, or
 - (ii) ascertaining whether any condition to which a Group 2 licence was subject has been complied with.

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

(2) In this Part—

“Group 2 offence” means an offence under section 6, 7, 9(5), 13(2) or 14,

“Group 2 licence” means a licence authorising anything which would otherwise be a Group 2 offence, and

“relevant registration” means a registration in accordance with regulations under section 7(1).

(3) In subsection (1)—

(a) paragraphs (a) and (b) do not confer power to enter a dwelling except for purposes connected with—

(i) a Group 2 licence or a relevant registration held by an occupier of the dwelling, or

(ii) an application by an occupier of the dwelling for a Group 2 licence or a relevant registration, and

(b) paragraph (c) does not confer any power to enter a dwelling.

18E Group 2 offences: examining specimens and taking samples

(1) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being, or has been, committed in respect of any specimen, require any person who has the specimen in his possession or control to make it available for examination by the inspector or a veterinary surgeon.

(2) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed, require the taking of a sample from a specimen found by him in the exercise of powers conferred by section 18D in order to determine its identity or ancestry.

(3) A wildlife inspector may, for the purpose of ascertaining whether a Group 2 offence is being or has been committed in respect of any specimen (“the relevant specimen”), require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person’s possession or control which—

(a) is alleged to be, or

(b) which the wildlife inspector suspects with reasonable cause to be, a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.

(4) Where, pursuant to a requirement under this section—

(a) a bird or other animal is to be examined, or

(b) a sample is to be taken from a bird or other animal,

a person who has the bird or animal in his possession or control must give the person making the examination or taking the sample such assistance as he may reasonably require for that purpose.

(5) “Specimen” and “sample” have the same meaning as in section 18C.

(6) This section is subject to section 18F.

18F Restrictions on taking of samples from live specimens

- (1) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird or other animal except by a veterinary surgeon.
 - (2) No sample may be taken by virtue of section 18C, 18E or 19XA from a live bird, other animal or plant unless the person taking it is satisfied on reasonable grounds that taking the sample will not cause lasting harm to the specimen.”
- 2 (1) Amend section 19 (powers of constables to stop, search, enter etc.) as follows.
- (2) In subsection (2)—
 - (a) after “is committing” insert “or has committed”, and
 - (b) for “enter any land other than a dwelling-house” substitute “enter any premises other than a dwelling”.
 - (3) After subsection (2) insert—
 - “(2A) A constable may, for the purpose of assisting him in exercising the powers conferred by subsection (1)(b) and (d) when he has entered any premises under subsection (2), take with him—
 - (a) any other person, and
 - (b) any equipment or materials.”
 - (4) In subsection (3), omit “(with or without other persons)”.
- 3 After section 19 insert—

“19XA Constables' powers in connection with samples

- (1) A constable who suspects with reasonable cause that a specimen found by him in the exercise of powers conferred by this section is one in respect of which an offence under this Part is being or has been committed may require the taking from it of a sample.
- (2) A constable who suspects with reasonable cause that an offence under this Part is being or has been committed in respect of any specimen (“the relevant specimen”) may require any person to make available for the taking of a sample any specimen (other than the relevant specimen) in that person’s possession or control which—
 - (a) is alleged to be, or
 - (b) the constable suspects with reasonable cause to be,
 a specimen a sample from which will tend to establish the identity or ancestry of the relevant specimen.
- (3) Where a sample from a live bird or other animal is to be taken pursuant to a requirement under this section, any person who has possession or control of the specimen must give the person taking the sample such assistance as he may reasonably require for that purpose.
- (4) “Specimen” and “sample” have the same meaning as in section 18C.
- (5) This section is subject to section 18F (restrictions on taking samples).

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

19XB Offences in connection with enforcement powers

- (1) A person is guilty of an offence if he—
 - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18B(1) or 18C(2) or (7), or
 - (b) fails without reasonable excuse to give any assistance reasonably required under section 18C(6).
- (2) A person is guilty of an offence if he—
 - (a) intentionally obstructs a wildlife inspector acting in the exercise of powers conferred by section 18D(1) or 18E(2), or
 - (b) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 18E(1) or (3), or
 - (c) fails without reasonable excuse to give any assistance reasonably required under section 18E(4).
- (3) A person is guilty of an offence if he—
 - (a) fails without reasonable excuse to make available any specimen in accordance with a requirement under section 19XA(2), or
 - (b) fails without reasonable excuse to give any assistance reasonably required under section 19XA(3).
- (4) Any person who, with intent to deceive, falsely pretends to be a wildlife inspector is guilty of an offence.”

4 Omit sections 19ZA (enforcement: wildlife inspectors) and 19ZB (power to take samples).

5 (1) Amend section 21 (penalties etc.) as follows.

(2) Omit subsections (4A) and (4D) (penalties in connection with power of entry and powers in connection with examination of specimens and taking samples).

(3) Before subsection (4B) insert—

“(4AA) Except in a case falling within subsection (4B) a person guilty of an offence under section 19XB(1), (2) or (3) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”

(4) In subsection (4B) (penalty for obstructing wildlife inspector to ascertain whether section 14 offence is being or has been committed)—

- (a) for “subsection (7) of section 19ZA” substitute “section 19XB(1)(a) or (2) (a)”, and
- (b) for “acting in the exercise of the power conferred by subsection (3)(c) of that section” substitute “entering premises to ascertain whether an offence under section 14 or 14ZA is being or has been committed”.

(5) In subsection (4C) (penalty for pretending to be wildlife inspector), for “19ZA(8)” substitute “19XB(4)”.

6 In section 27 (interpretation of Part 1), in subsection (1), in the definition of “wildlife inspector”, for “section 19ZA(1)” substitute “section 18A(1)”.

PART 2

POWERS OF WILDLIFE INSPECTORS EXTENDED TO CERTAIN OTHER ACTS

Introduction

7 In this Part “the enforcement provisions of the 1981 Act relating to Group 1 offences and Group 1 licences” means the following provisions of the Wildlife and Countryside Act 1981 (c. 69)—

- (a) section 18A (power to authorise persons to act as wildlife inspectors);
- (b) section 18B (power of wildlife inspector to enter premises);
- (c) section 18C (power to examine specimens and take samples);
- (d) section 18F (restrictions on taking samples from live specimens);
- (e) section 21(4AA) to (4C) (penalties for obstructing etc. wildlife inspectors).

Destructive Imported Animals Act 1932 (c. 12)

8 (1) The enforcement provisions of the 1981 Act relating to Group 1 offences and Group 1 licences apply for the purposes of the 1932 Act as if—

- (a) any reference to a Group 1 offence were a reference to any offence under the 1932 Act,
- (b) any reference to a Group 1 licence were a reference to a licence under the 1932 Act, and
- (c) as if the power to take a sample included power to take a sample from a destructive animal (whether live or dead) for the purpose of testing for disease.

(2) “Destructive animal” means a musk rat or other animal to which the 1932 Act applies.

Conservation of Seals Act 1970 (c. 30)

9 The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1970 Act as if—

- (a) the Natural Environment Research Council were required to be consulted about any authorisation of a person to exercise the powers of a wildlife inspector for the purposes of the 1970 Act,
- (b) any reference to a Group 1 offence were a reference to any offence under the 1970 Act,
- (c) any reference to a Group 1 licence were a reference to a licence under section 10 of the 1970 Act, and
- (d) the power to take a sample from a specimen did not include any power to take a sample from a live seal.

Deer Act 1991 (c. 54)

10 The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1991 Act as if—

- (a) any reference to a Group 1 offence were a reference to any offence under the 1991 Act,
- (b) any reference to a Group 1 licence were a reference to a licence under section 8 of the 1991 Act, and

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

- (c) as if the power to take a sample included power to take a sample from a deer (whether live or dead) for the purpose of testing for disease.

Protection of Badgers Act 1992 (c. 51)

- 11 The enforcement provisions relating to Group 1 offences and Group 1 licences apply for the purposes of the 1992 Act as if—
- (a) any reference to a Group 1 offence were a reference to any offence under the 1992 Act,
 - (b) any reference to a Group 1 licence were a reference to a licence under section 10 of the 1992 Act, and
 - (c) as if the power to take a sample included power to take a sample from a badger (whether live or dead) for the purpose of testing for disease.

PART 3

CODES OF PRACTICE

- 12 (1) The Secretary of State may—
- (a) issue a code of practice in connection with any of the provisions of sections 18A to 18F of the 1981 Act (including any of those provisions as applied by Part 2 of this Schedule), and
 - (b) revise or replace such a code.
- (2) An inspector must have regard to any relevant provision of a code when discharging any function under any of the provisions mentioned in sub-paragraph (1)(a).
- (3) But an inspector's failure to have regard to any provision of a code does not make him liable to criminal or civil proceedings.
- (4) A code—
- (a) is admissible in evidence in any proceedings, and
 - (b) must be taken into account by a court in any case in which it appears to the court to be relevant.

PART 4

CONSTABLE'S SEARCH WARRANT POWER EXTENDED TO CERTAIN OTHER ACTS

- 13 (1) Section 19(3) of the 1981 Act (issue of search warrants for purpose of obtaining evidence of offence) applies in relation to an offence under each of the Acts mentioned in sub-paragraph (2) as it applies in relation to an offence under Part 1 of the 1981 Act.
- (2) The Acts are—
- (a) the Destructive Imported Animals Act 1932 (c. 12);
 - (b) the Conservation of Seals Act 1970 (c. 30);
 - (c) the Deer Act 1991 (c. 54);
 - (d) the Protection of Badgers Act 1992 (c. 51).