

Changes to legislation: There are currently no known outstanding effects for the Animal Welfare Act 2006, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Section 53

POWERS OF ENTRY, INSPECTION AND SEARCH: SUPPLEMENTARY

Safeguards etc. in connection with powers of entry conferred by warrant

- 1 (1) Sections 15 and 16 of the Police and Criminal Evidence Act 1984 (c. 60) shall have effect in relation to the issue of a warrant under section 19(4) or 23(1) to an inspector as they have effect in relation to the issue of a warrant under that provision to a constable.
- (2) In their application in relation to the issue of a warrant under section 19(4) or 23(1), sections 15 and 16 of that Act shall have effect with the following modifications.
- (3) In section 15—
- (a) in subsection (2), omit the words from the end of paragraph (a)(ii) to the end of paragraph (b);
 - (b) omit subsections (2A) and (5A);
 - (c) in subsection (5), omit the words from “ unless ” to the end;
 - (d) in subsection (6)(a), omit the words from the end of sub-paragraph (iii) to the end of sub-paragraph (iv);
 - (e) in subsection (7), omit the words from “ (see ” to the end.
- (4) In section 16—
- (a) omit subsections (3A) and (3B);
 - (b) in subsection (9), omit the words after paragraph (b).

Commencement Information

I1 Sch. 2 para. 1 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I2 Sch. 2 para. 1 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

- 2 (1) This paragraph and paragraph 3 have effect in relation to the issue to inspectors of warrants under section 28(4); and an entry on premises under such a warrant is unlawful unless it complies with this paragraph and paragraph 3.
- (2) Where an inspector applies for a warrant, he shall—
- (a) state the ground on which he makes the application,
 - (b) state the enactment under which the warrant would be issued, and
 - (c) specify the premises which it is desired to enter.
- (3) An application for a warrant shall be made without notice and supported by an information in writing.
- (4) The inspector shall answer on oath any question that the justice of the peace hearing the application asks him.

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- (5) A warrant shall authorise an entry on one occasion only.
- (6) A warrant shall specify—
 - (a) the name of the person who applies for it,
 - (b) the date on which it is issued, and
 - (c) the enactment under which it is issued.
- (7) Two copies shall be made of a warrant.
- (8) The copies shall be clearly certified as copies.

Commencement Information

- I3** Sch. 2 para. 2 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)
- I4** Sch. 2 para. 2 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

- 3 (1) A warrant may be executed by any inspector.
- (2) A warrant may authorise persons to accompany any inspector who is executing it.
- (3) A person authorised under sub-paragraph (2) has the same powers as the inspector whom he accompanies in respect of the execution of the warrant, but may exercise those powers only in the company, and under the supervision, of an inspector.
- (4) Execution of a warrant must be within three months from the date of its issue.
- (5) Execution of a warrant must be at a reasonable hour unless it appears to the inspector executing it that the purpose of entry may be frustrated on an entry at a reasonable hour.
- (6) Where the occupier of premises which are to be entered under a warrant is present at the time when an inspector seeks to execute it, the inspector shall—
 - (a) identify himself to the occupier and shall produce to him documentary evidence that he is an inspector,
 - (b) produce the warrant to him, and
 - (c) supply him with a copy of it.
- (7) Where—
 - (a) the occupier of premises which are to be entered under a warrant is not present when an inspector seeks to execute it, but
 - (b) some other person who appears to the inspector to be in charge of the premises is present,
 sub-paragraph (6) shall have effect as if any reference to the occupier were a reference to that other person.
- (8) If there is no person present who appears to the inspector to be in charge of the premises, he shall leave a copy of the warrant in a prominent place on the premises.
- (9) A warrant which—
 - (a) has been executed, or
 - (b) has not been executed within the time authorised for its execution,
 shall be returned to the designated officer for the local justice area in which the justice of the peace who issued the warrant was acting when he issued it.

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(10) A warrant which is returned under sub-paragraph (9) shall be retained by the officer to whom it is returned for 12 months from its return.

(11) If during the period for which a warrant is to be retained the occupier of the premises to which it relates asks to inspect it, he shall be allowed to do so.

Commencement Information

I5 Sch. 2 para. 3 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I6 Sch. 2 para. 3 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Duty to produce evidence of identity

4 (1) This paragraph applies to a power of entry conferred by section 19(1), 22(2), 26(2), 27(2), 28(2) or 29(2).

(2) A person may only exercise a power of entry to which this paragraph applies if on request—

(a) he produces evidence of his identity and of his entitlement to exercise the power;

(b) he outlines the purpose for which the power is exercised.

Commencement Information

I7 Sch. 2 para. 4 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I8 Sch. 2 para. 4 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Power to take persons onto premises

5 In exercising a power to which paragraph 4 applies, a person may take with him onto the premises such persons as he thinks appropriate.

Commencement Information

I9 Sch. 2 para. 5 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I10 Sch. 2 para. 5 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Duty to exercise power of entry at reasonable time

6 Entry under a power to which paragraph 4 applies shall be at a reasonable time, unless it appears to the person exercising the power that the purpose for which he is exercising the power would be frustrated on entry at a reasonable time.

Commencement Information

I11 Sch. 2 para. 6 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I12 Sch. 2 para. 6 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

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Power to require assistance

- 7 (1) This paragraph applies to a power of entry conferred by—
- (a) section 19(1), 22(2), 26(2), 27(2), 28(2) or 29(2), or
 - (b) a warrant under section 19(4), 22(4), 23(1) or 28(4).
- (2) Where a person enters premises in the exercise of a power of entry to which this paragraph applies, he may require any qualifying person on the premises to give him such assistance as he may reasonably require for the purpose for which entry is made.
- (3) The reference in sub-paragraph (2) to a qualifying person is to—
- (a) the occupier of the premises;
 - (b) any person who appears to the person exercising the power to be responsible for animals on the premises;
 - (c) any person who appears to the person exercising the power to be under the direction or control of a person mentioned in paragraph (a) or (b).
- (4) In the case of a power under section 26(2), the reference in sub-paragraph (2) to a qualifying person also includes the holder of a licence—
- (a) specifying the premises as premises on which the carrying on of an activity is authorised, or
 - (b) relating to an activity which is being carried on on the premises.

Commencement Information

- I13** Sch. 2 para. 7 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)
I14 Sch. 2 para. 7 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Power to take equipment onto premises

- 8 In exercising a power to which paragraph 7 applies, a person may take with him such equipment and materials as he thinks appropriate.

Commencement Information

- I15** Sch. 2 para. 8 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)
I16 Sch. 2 para. 8 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Duty to leave premises secured

- 9 If, in the exercise of a power of entry to which paragraph 7 applies, a person enters premises which are unoccupied, he shall leave them as effectively secured against entry as he found them.

Commencement Information

- I17** Sch. 2 para. 9 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)
I18 Sch. 2 para. 9 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

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Functions in connection with inspection and search

- 10 (1) This paragraph applies to—
- (a) a power of inspection conferred by section 26(1), 27(1), 28(1) or 29(1), and
 - (b) a power of search conferred by a warrant under section 23(1).
- (2) A person exercising a power to which this paragraph applies may—
- (a) inspect an animal found on the premises;
 - (b) inspect any other thing found on the premises, including a document or record (in whatever form it is held);
 - (c) carry out a measurement or test (including a measurement or test of an animal found on the premises);
 - (d) take a sample (including a sample from an animal found on the premises or from any substance on the premises which appears to be intended for use as food for such an animal);
 - (e) mark an animal found on the premises for identification purposes;
 - (f) remove a carcass found on the premises for the purpose of carrying out a post-mortem examination on it;
 - (g) take copies of a document or record found on the premises (in whatever form it is held);
 - (h) require information stored in an electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible or from which it can readily be produced in a visible and legible form;
 - (i) take a photograph of anything on the premises;
 - (j) seize and detain or remove anything which the person exercising the power reasonably believes to be evidence of any non-compliance, or of the commission of any offence, relevant to the purpose for which the inspection or search is made.
- (3) A person taken onto premises under paragraph 5 may exercise any power conferred by sub-paragraph (2) if he is in the company, and under the supervision, of a person exercising a power to which this paragraph applies.

Commencement Information

I19 Sch. 2 para. 10 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I20 Sch. 2 para. 10 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

- 11 A person who takes a sample from an animal pursuant to paragraph 10(2)(d) shall give a part of the sample, or a similar sample, to any person appearing to be responsible for the animal, if, before the sample is taken, he is requested to do so by that person.

Commencement Information

I21 Sch. 2 para. 11 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I22 Sch. 2 para. 11 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

- 12 (1) Paragraph 10(2)(j) does not include power to seize an item which the person exercising the power has reasonable grounds for believing to be subject to legal

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privilege (within the meaning of section 10 of the Police and Criminal Evidence Act 1984 (c. 60)).

- (2) A person who seizes anything in exercise of the power under paragraph 10(2)(j) shall on request provide a record of the thing seized to a person showing himself—
- (a) to be the occupier of premises on which it was seized, or
 - (b) to have had possession or control of it immediately before its seizure.
- (3) Subject to sub-paragraph (4), anything which has been seized in the exercise of a power under paragraph 10(2)(j) may be retained so long as is necessary in all the circumstances and in particular—
- (a) for use as evidence at a trial for a relevant offence, or
 - (b) for forensic examination or for investigation in connection with a relevant offence.
- (4) Nothing may be retained for either of the purposes mentioned in sub-paragraph (3) if a photograph or a copy would be sufficient for that purpose.

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I23 Sch. 2 para. 12 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I24 Sch. 2 para. 12 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

- 13 As soon as reasonably practicable after having exercised a power to which paragraph 10 applies, the person who exercised the power shall—
- (a) prepare a written report of the inspection or search, and
 - (b) if requested to do so by the occupier of the premises, give him a copy of the report.

Commencement Information

I25 Sch. 2 para. 13 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I26 Sch. 2 para. 13 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

- 14 (1) A person exercising a power of search conferred by a warrant under section 23(1) may (if necessary) use reasonable force in the exercise of powers under paragraph 10 in connection with the execution of the warrant.
- (2) A person carrying out an inspection under section 28(1) on premises which he is authorised to enter by a warrant under section 28(4) may (if necessary) use reasonable force in the exercise of powers under paragraph 10 in connection with the inspection.

Commencement Information

I27 Sch. 2 para. 14 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)

I28 Sch. 2 para. 14 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Functions in connection with entry under section 19

- 15 (1) Where a person enters premises in exercise of a power of entry conferred by section 19(1), or by a warrant under section 19(4), he may—

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- (a) inspect an animal found on the premises;
 - (b) remove a carcass found on the premises for the purposes of carrying out a post-mortem examination on it;
 - (c) remove for those purposes the carcass of an animal destroyed on the premises in exercise of power conferred by section 18(3) or (4);
 - (d) take a photograph of anything on the premises.
- (2) Where a person exercising a power of entry under section 19(1) takes another person with him under paragraph 5, the other person may exercise any power conferred by sub-paragraph (1) if he is in the company, and under the supervision, of the person exercising the power of entry.

Commencement Information

- I29** Sch. 2 para. 15 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)
I30 Sch. 2 para. 15 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

Offences

- 16 A person commits an offence if he—
- (a) intentionally obstructs a person in the lawful exercise of a power to which paragraph 7 or 10 applies;
 - (b) intentionally obstructs a person in the lawful exercise of a power conferred by this Schedule;
 - (c) fails without reasonable excuse to give any assistance which he is required to give under paragraph 7.

Commencement Information

- I31** Sch. 2 para. 16 in force at 27.3.2007 for W. by S.I. 2007/1030, art. 2(1)(g)
I32 Sch. 2 para. 16 in force at 6.4.2007 for E. by S.I. 2007/499, art. 2(2)(i)

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