

## SCHEDULE

(introduced by section 5)

### POWERS OF ENFORCEMENT

#### *Interpretation*

- 1 (1) In this Schedule—
- “inspector” (“*arolygydd*”) means a person appointed as an inspector for the purposes of this Act by—
    - (a) a county council or a county borough council in Wales, or
    - (b) the Welsh Ministers.
  - “power of entry” (“*pŵer mynediad*”) means a power of entry conferred on an inspector by—
    - (a) paragraph 2 (power to enter premises other than dwellings), or
    - (b) a warrant under paragraph 3 (warrant to enter dwellings);
  - “premises” (“*mangreodd*”) includes—
    - (a) land, and
    - (b) any place, including in particular—
      - (i) a vehicle, and
      - (ii) a tent or a moveable structure.
- (2) In this Schedule, references to the occupier of premises in relation to a vehicle are references to the person who appears to be in charge of the vehicle; and “unoccupied” is to be construed accordingly.

#### *Power to enter premises other than dwellings*

- 2 (1) An inspector may enter any premises if the inspector has reasonable grounds for suspecting that—
- (a) an offence under section 1 is being, has been or is about to be committed on the premises, or
  - (b) evidence an offence under section 1 is being, has been or is about to be committed may be found on the premises.
- (2) But this does not apply in relation to premises used wholly or mainly as a dwelling.

#### *Warrant to enter a dwelling*

- 3 (1) An inspector may not enter any premises used wholly or mainly as a dwelling unless—
- (a) the occupier of the premises or other person appearing to the inspector to be in charge of the premises consents, or
  - (b) a justice of the peace has issued a warrant, on the application of an inspector, authorising the inspector to enter the premises.
- (2) A justice of the peace may issue a warrant if satisfied on sworn information in writing that—
- (a) there are reasonable grounds for suspecting that—
    - (i) an offence under section 1 is being, has been or is about to be committed on the premises, or

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*Status: This is the original version (as it was originally enacted).*

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- (ii) evidence an offence under section 1 is being, has been or is about to be committed may be found on the premises; and
- (b) any of conditions 1, 2, 3 or 4 is met.
- (3) Condition 1 is that—
  - (a) a request to enter the premises has been refused or is likely to be refused, and
  - (b) notice of the intention to apply for a warrant has been given to the occupier of the premises or to a person appearing to the inspector to be in charge of the premises.
- (4) Condition 2 is that requesting to enter the premises or giving notice of intention to apply for a warrant under this paragraph might defeat the object of the entry.
- (5) Condition 3 is that the premises are unoccupied.
- (6) Condition 4 is that—
  - (a) the occupier of the premises is temporarily absent, and
  - (b) it might defeat the object of entry to wait for the occupier’s return.
- 4 A warrant issued under paragraph 3—
  - (a) authorises entry on one occasion;
  - (b) must be executed within 28 days beginning with the date it was issued.

#### *Entering premises*

- 5 (1) An inspector exercising a power of entry must, if asked by a person on the premises—
  - (a) show evidence of the inspector’s identity, and
  - (b) outline the purpose for which the power is exercised.
- (2) Where an inspector enters premises under a warrant issued under paragraph 3, the inspector must also—
  - (a) if asked by a person on the premises, show a copy of the warrant, and
  - (b) if asked by the occupier or a person appearing to the inspector to be in charge of the premises, give a copy of the warrant to that person.
- (3) If neither the occupier nor a person appearing to the inspector to be in charge of the premises is present—
  - (a) the inspector must leave a copy of the warrant in a prominent place on the premises, and
  - (b) on leaving the premises, the inspector must leave them as effectively secured against unauthorised entry as when the inspector found them.
- 6 An inspector exercising a power of entry must do so at a reasonable hour unless it appears to the inspector that the purpose of entry would be frustrated by entry at a reasonable hour.
- 7 An inspector exercising a power of entry may use reasonable force to enter the premises if necessary.
- 8 An inspector exercising a power of entry may take—
  - (a) such other persons onto the premises as appear to the inspector to be appropriate, and
  - (b) such equipment and materials onto the premises as appear to the inspector to be appropriate.

*Powers of inspection etc.*

- 9 An inspector exercising a power of entry may—
- (a) search the premises;
  - (b) examine, measure or test anything that is found on the premises, including an animal;
  - (c) question any person on the premises;
  - (d) require any person on the premises to give the inspector such assistance as the inspector may reasonably require;
  - (e) take a sample, including a sample from an animal;
  - (f) mark an animal found on the premises for identification purposes;
  - (g) take a photograph or video recording of anything that is found on the premises, including of an animal;
  - (h) require any person on the premises to produce any document or record in whatever form it is held that is in the person's possession or control;
  - (i) take copies of or extracts from any document or record found on the premises in whatever form it is held;
  - (j) require information which is stored in an electronic form and is 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;
  - (k) seize any item, except an animal, that is found on the premises and which the inspector reasonably believes to be evidence of the commission of an offence under section 1.
- 10 A person taken onto the premises under paragraph 8(a) may exercise any power conferred on an inspector by paragraph 9 if the person is under the supervision of the inspector.

*Power of seizure: supplementary*

- 11 (1) Any item seized under paragraph 9(k) may be retained for so long as is necessary.
- (2) A person who seizes anything under paragraph 9(k) must—
- (a) keep a record of the item seized, and
  - (b) provide a record of the item seized if requested to do so by a person who occupied the premises at the time of the seizure or who had possession or control of the item immediately before it was seized.
- (3) Paragraph 9(k) does not include power to seize any item in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

*Obstruction etc.*

- 12 (1) A person commits an offence if—
- (a) the person fails without reasonable excuse to comply with a requirement for assistance reasonably made under paragraph 9(d);
  - (b) the person intentionally obstructs another in the exercise of a function under this Schedule.
- (2) A person guilty of an offence under this section is liable on summary conviction to a fine.

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### *Liability of inspectors*

- 13 (1) An inspector is not liable in any civil or criminal proceedings for anything done in the purported performance of the inspector's functions under this Schedule if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.
- (2) Sub-paragraph (1) applies to any person taken onto premises by an inspector under paragraph 8(a) as it applies to an inspector if the person is under the supervision of the inspector.