

Status: Point in time view as at 01/07/2005.

Changes to legislation: There are currently no known outstanding effects for the Food and Environment Protection Act 1985, SCHEDULE 2. (See end of Document for details)

SCHEDULES

SCHEDULE 2

Sections 4, 11 and 19.

OFFICERS AND THEIR POWERS

Modifications etc. (not altering text)

- C1** Sch. 2 applied (E.W.) (with modifications) (1.2.2000) by [S.I. 1999/3483](#), [reg. 4\(6\)](#) **Sch. 2** applied (1.2.2000) by [S.S.I. 2000/22](#), [art. 4\(5\)](#)

Introductory

- 1 In this Schedule “officer” means—
- an investigating officer;
 - an enforcement officer; and
 - a person authorised to enforce Part II or III of this Act.

Modifications etc. (not altering text)

- C2** Sch. 2 para. 1(c) applied (with modifications) (E.W.S.) (17.4.1995) by [S.I. 1995/887](#), [reg. 24\(1\)](#)
- C3** Sch. 2 para. 1(c) applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), [regs. 1, 24\(1\)](#)
- C4** Sch. 2 para. 1(c) applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), [regs. 1\(1\), 24](#)
- C5** Sch. 2 para. 1(c) applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), [regs. 1\(1\), 24](#) (with [Sch. 4](#))
- C6** Sch. 2 para. 1(c) applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), [art. 1reg. 24](#)

Assistants for officers etc.

- 2 (1) An officer may take with him, to assist him in performing his functions—
- any other person; and
 - any equipment or materials.
- (2) A person whom an officer takes with him to assist him may perform any of the officer’s functions, but only under the officer’s supervision.

Modifications etc. (not altering text)

- C7** Sch. 2 para. 2 applied (with modifications) (E.W.S.) (17.4.1995) by [S.I. 1995/887](#), [reg. 24\(1\)](#)
- C8** Sch. 2 para. 2 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), [regs. 1\(1\), 24](#)

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- C9** Sch. 2 para. 2 applied (with modifications) (E. W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), regs. 1, **24(1)**
- C10** Sch. 2 para. 2 applied (with modifications) (E. W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), regs. 1, **24**
- C11** Sch. 2 para. 2 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), regs. 1(1), **24** (with Sch. 4)

[^{F1} Power to question

Textual Amendments

- F1** [Sch. 2 para. 2A](#) inserted (9.9.1998) by [1998 c. 26, ss. 2\(2\), 3\(b\)](#)

- 2A** (1) If an officer is carrying out functions conferred by Part III of this Act, he may require a person whom he has reasonable cause to believe is able to give information which will assist him in carrying out those functions—
- (a) to answer such questions as the officer thinks it appropriate to ask; and
 - (b) to sign a declaration of the truth of his answers.
- (2) Any person to whom questions are put under this paragraph may nominate a person to be with him when he gives his answers.
- (3) When a person answers any such questions the only other persons who may be present (apart from the questioner) are—
- (a) the person (if any) nominated under sub-paragraph (2); and
 - (b) any person authorised by the officer to be present.
- (4) A person is not to be excused from complying with a requirement under sub-paragraph (1) on the ground that to do so might incriminate him or his spouse of an offence; but a statement or admission made in complying is not admissible in evidence against either of them in proceedings for any offence.]

Powers in relation to vessels, aircraft etc.

- 3** (1) In order to perform functions under Part I or II or this Act an officer may require any person—
- (a) to give details of any substances or articles on board a vessel, aircraft, hovercraft or marine structure; and
 - (b) to give information concerning any substances or articles lost from a vessel, aircraft, hovercraft or marine structure.
- (2) In order to perform any such functions an officer—
- (a) may require any vessel, aircraft, hovercraft or marine structure to stop; and
 - (b) may require the attendance—
 - (i) of the master, captain or commander of a vessel, aircraft or hovercraft;
 - (ii) of the person in charge of a marine structure; and
 - (iii) of any other person who is on board a vessel, aircraft, hovercraft or marine structure,
 and may require any person on board to assist him in the performance of his functions.

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- (3) In order to perform functions under Part I [^{F2}or II] of this Act an officer—
- (a) may require—
 - (i) the master, captain or commander of a vessel, aircraft or hovercraft; and
 - (ii) the person in charge of a marine structure, to take it and its crew to the port which appears to the officer to be the nearest convenient port; or
 - (b) may take it there himself.
- (4) In order to perform any such functions an officer may detain a vessel, aircraft, hovercraft or marine structure.
- (5) If an officer detains a vessel, aircraft, hovercraft or marine structure, he shall serve on the master, captain, commander or person in charge a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an officer.

Textual Amendments

F2 Words inserted by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\), s. 146\(8\)](#)

Modifications etc. (not altering text)

C12 [Sch. 2 para. 3](#) extended (with modifications) (22.8.1997) by [S.I. 1997/1770, art. 5](#)

C13 [Sch. 2 para. 3](#) extended (with modifications) (22.8.1997) by [S.I. 1997/1771, art. 4](#)

Containers etc.

- 4 [^{F3}(1)] Without prejudice to his powers under any other provision of this Act, in order to perform his functions an officer—
- (a) may open any container;
 - (b) may carry out searches, inspections, measurements and tests;
 - (c) may take samples;
 - (d) may require the production of documents, books and records; and
 - (e) may photograph or copy anything whose production he has power to require under paragraph (d) above.
- [^{F4}(2) An officer exercising any power of entry conferred by Part III of this Act may photograph anything which he has reasonable cause to believe may be relevant in connection with the exercise of his functions under that Part.
- (3) Nothing in sub-paragraph (2) affects the powers conferred by sub-paragraph (1).]

Textual Amendments

F3 S. 4 renumbered as s. 4(1) (9.9.1998) by [1998 c. 26, ss. 2\(3\), 3\(b\)](#)

F4 S. 4(2)(3) inserted (9.9.1998) by [1998 c. 26, ss. 2\(3\), 3\(b\)](#)

Modifications etc. (not altering text)

C14 [Sch. 2 para. 4](#) applied (with modifications) (E.W.S.) (17.4.1995) by [S.I. 1995/887, reg. 24\(1\)](#)

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- C15** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), regs. 1, **24(1)**
- C16** Sch. 2 paras. 4-9 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), regs. 1(1), **24**
- C17** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), regs. 1, **24**
- C18** Sch. 2 paras. 4-9 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), regs. 1(1), **24** (with Sch. 4)

Evidence of officers' authority

- 5 (1) An officer shall be furnished with a certificate of his authorisation, and when he proposes to perform any function under this Act, it shall be his duty, if so requested, to produce that certificate.
- (2) It shall also be his duty, if so requested, to state—
- (a) his name;
 - (b) the function that he proposes to perform; and
 - (c) his grounds for proposing to perform it.
- (3) The references to certificates of authorisation in sub-paragraph (1) above are to be construed, in relation to a British sea-fishery officer, as references to his warrant of appointment as a British sea-fishery officer.

Modifications etc. (not altering text)

- C15** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), regs. 1, **24(1)**
- C16** Sch. 2 paras. 4-9 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), regs. 1(1), **24**
- C17** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), regs. 1, **24**
- C18** Sch. 2 paras. 4-9 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), regs. 1(1), **24** (with Sch. 4)
- C19** [Sch. 2 para. 5](#) applied (with modifications) (E.W.S.) (17.4.1995) by [S.I. 1995/887](#), **reg. 24(1)**

Time of performance of functions

- 6 An officer must perform his functions under this Act at a reasonable hour unless it appears to the officer that there are grounds for suspecting that the purpose of their performance may be frustrated if he seeks to perform them at a reasonable hour.

Modifications etc. (not altering text)

- C15** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), regs. 1, **24(1)**
- C16** Sch. 2 paras. 4-9 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), regs. 1(1), **24**
- C17** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), regs. 1, **24**

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- C18** Sch. 2 paras. 4-9 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), regs. 1(1), **24** (with Sch. 4)
- C20** Sch. 2 para. 6 applied (with modifications)(E.W.S.) (17.4 1995) by [S.I. 1995/887](#), **reg. 24(1)**

Entry into dwellings

- 7 (1) An officer may only enter a dwelling for the purpose of performing his functions under this Act if a justice has issued a warrant authorising him to enter and search that dwelling.
- (2) A justice may only issue such a warrant if on an application made by the officer he is satisfied—
- (a) that the officer has reasonable grounds for believing that there is present in the dwelling anything to which those functions relate, and
 - (b) that—
 - (i) it is not practicable to communicate with any person entitled to grant entry to the dwelling; or
 - (ii) a person entitled to grant entry to the dwelling has unreasonably refused an officer entry; or
 - (iii) entry to the dwelling is unlikely to be granted unless a warrant is produced; or
 - (iv) the purpose of entry may be frustrated or seriously prejudiced unless an officer arriving at the dwelling can secure immediate entry to it.
- (3) In this paragraph “justice” means—
- (a) in relation to England and Wales and Northern Ireland, a justice of the peace; and
 - (b) in relation to Scotland, a sheriff, stipendiary magistrate or justice of the peace.
- (4) In relation to England and Wales, sections 15 and 16 of the ^{M1}Police and Criminal Evidence Act 1984 (which relate to safeguards in respect of warrants and the execution of warrants) [^{F5}and, in relation to Northern Ireland, Articles 17 and 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (which make provision corresponding to those sections)] shall have effect in relation to warrants for officers under this paragraph as they have effect in relation to warrants for constables.

Textual Amendments

- F5** Words inserted by [S.I. 1989/1341 \(N.I. 12\)](#), art. 90(1), **Sch. 6 para. 12**

Modifications etc. (not altering text)

- C15** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), regs. 1, **24(1)**
- C16** Sch. 2 paras. 4-9 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), regs. 1(1), **24**
- C17** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), regs. 1, **24**
- C18** Sch. 2 paras. 4-9 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), regs. 1(1), **24** (with Sch. 4)

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C21 Sch. 2 para. 7 applied (with modifications)(E.W.S.) (17.4.1995) by S.I. 1995/887, **reg. 24(1)**

Marginal Citations

M1 1984 c. 44.

Power of officer to use reasonable force

- 8 An officer may use reasonable force, if necessary, in the performance of his functions.

Modifications etc. (not altering text)

- C15** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), **regs. 1, 24(1)**
- C16** Sch. 2 paras. 4-9 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), **regs. 1(1), 24**
- C17** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), **regs. 1, 24**
- C18** Sch. 2 paras. 4-9 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), **regs. 1(1), 24** (with Sch. 4)
- C22** Sch. 2 para. 8 applied (with modifications)(E.W.S.) (17.4.1995) by S.I. 1995/887, **reg. 24(1)**

Protection of officers

- 9 An officer shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Modifications etc. (not altering text)

- C15** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (31.12.2003) by [Plant Protection Products Regulations 2003 \(S.I. 2003/3241\)](#), **regs. 1, 24(1)**
- C16** Sch. 2 paras. 4-9 applied (with modifications) (S.) (31.12.2003) by [Plant Protection Products \(Scotland\) Regulations 2003 \(S.S.I. 2003/579\)](#), **regs. 1(1), 24**
- C17** Sch. 2 paras. 4-9 applied (with modifications) (E.W.) (1.7.2005) by [Plant Protection Products Regulations 2005 \(S.I. 2005/1435\)](#), **regs. 1, 24**
- C18** Sch. 2 paras. 4-9 applied (with modifications) (S.) (1.7.2005) by [Plant Protection Products \(Scotland\) Regulations 2005 \(S.S.I. 2005/331\)](#), **regs. 1(1), 24** (with Sch. 4)
- C23** Sch. 2 para. 9 applied (with modifications)(E.W.S.) (17.4.1995) by S.I. 1995/887, **reg. 24(1)**

Offences

- 10 Any person who—
- (a) intentionally obstructs an officer in the performance of any of his functions under this Act;
 - (b) fails without reasonable excuse to comply with a requirement made or direction given by an officer in the performance of his functions under this Act; or

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- (c) in purporting to give information required by an officer for the performance of any of his functions under this Act—
 - (i) makes a statement which he knows to be false in a material particular;
 - (ii) recklessly makes a statement which is false in a material particular;
 - or
 - (iii) intentionally fails to disclose any material particular,shall be guilty of an offence.

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