



Food and Environment Protection Act 1985

1985 CHAPTER 48

PART III

PESTICIDES ETC.

19 Enforcement powers.

- [^{F1}(1) Subject to the following provisions of this section, the powers conferred by this section (including Schedule 2 to this Act) (“the enforcement powers”) may be exercised—
- (a) by a person whom either of the Ministers has by instrument in writing authorised to exercise them; or
 - (b) by an officer of a local authority who is authorised to exercise them under subsection (1C) below.
- (1A) An instrument issued under subsection (1)(a) above may provide that the person to whom it is issued may only exercise the enforcement powers for specified purposes.
- (1B) Either of the Ministers may specify descriptions of local authority officers who may be authorised to exercise the enforcement powers but may direct that an officer of a particular description may only be authorised to exercise them for specified purposes.
- (1C) If either of the Ministers specifies a description of local authority officers under subsection (1B) above, a local authority may by instrument in writing authorise any of its officers falling within that description to exercise the enforcement powers.
- (1D) The following provisions of this Act are to be construed in reference to a person authorised to exercise the enforcement powers as subject to the terms of the instrument which authorises him to exercise them.]
- (2) Subject to the following provisions of this Act, a person so authorised may enter any land if he has reasonable grounds to believe—
- (a) that any pesticide is being or has been applied to or stored on it; and

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- (b) that it is necessary for him to enter for any of the general purposes of this Part of this Act.
- (3) A person so authorised may enter any vehicle, vessel, aircraft, hovercraft or marine structure if he has reasonable grounds to believe—
- (a) that any pesticide is being or has been stored in, transported on or applied by means of it; and
 - (b) that it is necessary for him to do so for any of the general purposes of this Part of this Act.
- (4) For any of those purposes, a person so authorised may require any person to give him information as to the formulation, effects or use of any substance.
- (5) If a person so authorised is of the opinion that a person—
- (a) is committing an offence under section 16(12)(a) above; or
 - (b) has committed such an offence in circumstances that make it likely that the offence will be repeated,
- he may serve on that person a notice stating that he is of that opinion, specifying the offence as to which he is of that opinion, giving particulars of the reasons why he is of that opinion and directing—
- (i) that any land, vehicle, vessel, aircraft, hovercraft or marine structure on or in which it appears to him that the offence was or is being committed or anything which is on or in it, shall be left undisturbed (whether generally or in particular respects) for so long as it appears to him to be reasonably necessary; or
 - (ii) that any reasonable remedial or preventive measures shall be taken.
- (6) If a person so authorised is of the opinion that any activities, as carried on or about to be carried on by or under the control of any person, involve or, as the case may be, will involve a risk of the commission of an offence under section 16(12)(a) above, he may serve on that person a notice—
- (a) stating that he is of that opinion;
 - (b) specifying the matters which in his opinion give or, as the case may be, will give rise to the said risk; and
 - (c) directing that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of paragraph (b) above have been remedied.
- [^{F2}(6A) A notice under subsection (5) or (6) above may at any time be withdrawn by a person so authorised.
- (6B) Withdrawal of a notice does not affect the power to serve a fresh notice under subsection (5) or (6).]
- (7) Schedule 2 to this Act shall have effect with respect to persons authorised to enforce this Part of this Act.
- [^{F3}(8) In this section “local authority” means—
- (a) any local authority, as defined in the Local Government Act ^{M1}1972, except a parish or community council;
 - (b) any local authority, as defined in the Local Government (Scotland) Act ^{M2}1973;
 - (c) a district council in Northern Ireland; and

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(d) a port health authority.]

Textual Amendments

- F1** S. 19(1)(1A)-(1D) substituted for s.19(1) by Pesticides (Fees and Enforcement) Act 1989 (c. 27, SIF 46:4), s. 2(1)(3)
- F2** S. 19 (6A)(6B) inserted (9.9.1998) by 1998 c. 26, ss. 2(1), 3(b)
- F3** S. 19(8) added by Pesticides (Fees and Enforcement) Act 1989 (c. 27, SIF 46:4), s. 2(2)(3)

Modifications etc. (not altering text)

- C1** S. 19 applied (with modifications) (E.W.S.) (17.4.1995) by S.I. 1995/887, reg. 24(1)
S. 19 applied (1.2.2000) by S.S.I. 2000/22, art. 4(5)
S. 19 applied (with modifications) (E.W.) (1.2.2000) by S.I. 1999/3483, reg. 4(6)
- C2** S. 19(5)(6) applied (17.6.1994) by S.I. 1993/3159, art. 2(2)(4), Sch. 1

Marginal Citations

- M1** 1972 c. 70(81:1).
- M2** 1973 c. 65(81:2).

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