
STATUTORY INSTRUMENTS

2019 No. 1488

The Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019

PART 4

Enforcement and penalties

Enforcement and prosecution

11.—(1) Enforcement of these Regulations and the EU Official Controls Regulations is the responsibility of the competent authority or a designated authority.

(2) The Secretary of State may as regards England direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by the Secretary of State instead of a designated authority.

(3) Where the Secretary of State makes a direction under paragraph (2), the Secretary of State may delegate to the Director of Public Prosecutions functions in relation to the prosecution of an offence under these Regulations.

(4) The Scottish Ministers may as regards Scotland direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by the Scottish Ministers instead of a designated authority.

(5) The Welsh Ministers may in relation to Wales direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by the Welsh Ministers instead of a designated authority.

(6) The Department for Agriculture, Environment and Rural Affairs may as regards Northern Ireland direct, in relation to cases of a particular description or to a particular case, that these Regulations are to be enforced by that Department instead of a designated authority.

Powers of enforcement officers

12.—(1) An enforcement officer may—

- (a) make any enquiries, observe any activity or process, and take photographs;
- (b) inspect any article, container, plant, equipment or records of any class which appear to the enforcement officer to be relevant for the purposes of the investigation, and make or require copies of such records and remove such records as may reasonably be required;
- (c) mark any item for identification purposes;
- (d) require the production of any label, document or record (in whatever form it is held);
- (e) inspect and take a copy of, or take a copy of an extract from, any label, document or record;
- (f) have access to, and inspect and check the data on, and operation of, any computer;
- (g) if the enforcement officer has reason to believe that a person is in contravention of these Regulations or the EU Official Controls Regulations, and that the data may be relevant to

the contravention, seize and detain any computer equipment for the purpose of copying the data or, where it has not been possible to carry out adequate inspection on the premises, of further inspection;

- (h) if the enforcement officer has reason to believe that a person is in contravention of these Regulations or the EU Official Controls Regulations, and that certain records may be relevant to the contravention, seize and detain the records.
- (2) An enforcement officer must—
- (a) produce evidence of authorisation when requested to do so;
 - (b) as soon as reasonably possible—
 - (i) provide to the person appearing to be responsible for any records removed from any premises a written receipt identifying those records; and
 - (ii) after deciding that they are no longer required, return anything removed, apart from records or other things to be used as evidence in court proceedings.

Powers of entry

13.—(1) An enforcement officer may enter any premises (except any premises used wholly or mainly as a private dwelling) during normal working hours without prior notice, if the officer believes that it is necessary for the purpose of official controls or other official activities under these Regulations or the EU Official Controls Regulations.

(2) In circumstances where an enforcement officer is carrying out routine verification checks, notice must be provided before exercising a power of entry to premises during normal working hours.

- (3) The requirement to give notice in paragraph (2) does not apply—
- (a) where reasonable efforts to agree an appointment have failed;
 - (b) where the enforcement officer reasonably believes that giving notice would defeat the object of the entry, including any situation in which notice is not required under Article 9(4); or
 - (c) where the enforcement officer has a reasonable suspicion that any provision of these Regulations or the EU Official Controls Regulations has been contravened.

(4) An enforcement officer must, if requested to do so, produce a duly authenticated authorisation document.

(5) A justice of the peace, lay magistrate, sherriff or summary sherriff (as appropriate) may sign a warrant (or in Northern Ireland, a sworn complaint) to permit an enforcement officer to enter any premises, including a dwelling-house, if necessary by reasonable force, if the person to whom the application for a warrant is made is satisfied on sworn information in writing—

- (a) that there are reasonable grounds to enter those premises for the purpose of enforcing these Regulations or the EU Official Controls Regulations, and
- (b) that one or more of the conditions in paragraph (6) are met.

(6) The conditions are—

- (a) that entry to the premises has been, or is likely to be, refused, and notice of the intention to apply for a warrant has been given to the occupier;
- (b) that asking for admission to the premises, or giving such a notice, would defeat the object of the entry;
- (c) that entry is required urgently;
- (d) that the premises are unoccupied or the occupier is temporarily absent.

(7) A warrant is valid for 30 days from the date of signature.

(8) An enforcement officer entering any premises which are unoccupied or from which the occupier is temporarily absent must leave them as effectively secured against unauthorised entry as they were before entry.

(9) An enforcement officer may—

- (a) be accompanied by such other persons, up to a maximum of three, as the enforcement officer considers necessary;
- (b) bring onto the premises such equipment as the enforcement officer considers necessary.

Offences and penalties

14.—(1) A person is guilty of an offence if without reasonable excuse that person obstructs or causes or permits to be obstructed—

- (a) an auditor;
- (b) an inspector;
- (c) any person who accompanies a relevant auditor or relevant inspector; or
- (d) an enforcement officer.

(2) For the purposes of paragraph (1), obstruction includes failure by any person—

- (a) to produce records or provide reasonable facilities for copying records; or
- (b) to provide relevant information when requested.

(3) A person is guilty of an offence if without reasonable excuse that person supplies information which, in any material particular, is false or misleading.

(4) A person guilty of an offence under this regulation is liable on summary conviction—

- (a) in England and Wales, to a fine;
- (b) in Scotland, to a fine not exceeding level 5 on the standard scale; or
- (c) in Northern Ireland, to a fine not exceeding level 5 on the standard scale.

Offences by bodies corporate

15.—(1) If an offence under regulation 14 is committed by a body corporate, Scottish partnership or other unincorporated association and is shown to have been committed with the consent or connivance of an officer, or to be attributable to the neglect of such officer, that officer as well as the body corporate, Scottish partnership or other unincorporated association is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with functions of management as if that person were a director of the body.

(3) “Officer” means—

(a) in relation to a body corporate—

- (i) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity;
- (ii) where the affairs of the body are managed by its members, a member;

(b) in relation to a Scottish partnership, a partner;

(c) in relation to an unincorporated association other than a Scottish partnership, a person who is concerned in the management or control of the association.

Time limits for prosecution

16. A prosecution for an offence under this Part may begin no later than the earlier of the expiry of—

- (a) three years from the commission of the offence; or
- (b) one year from its discovery by the prosecuting authority.