

Warranted powers of HSE inspectors



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Health and Safety at Work etc Act 1974

1 An inspector of the Health and Safety Executive, appointed under section 19 of the Health and Safety at Work etc Act 1974 ('the 1974 Act'), and entitled to exercise the powers of an inspector specified in:

- *sections 20, 21, 22, 23, 25 and in England and Wales section 39 of the 1974 Act;*
- *any health and safety regulation; and*
- *the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule and of the Regulations, orders or other instruments of a legislative character made or having effect under any provision so specified;*

(as in force from time to time); and to

- *institute proceedings in England and Wales pursuant to section 38 of the 1974 Act.*

2 An inspector of the Health and Safety Executive, appointed under section 19 of the Health and Safety at Work etc Act 1974 ('the 1974 Act'), and entitled to exercise the powers of an inspector specified in:

- *sections 20, 21, 22, 23, 25 and in England and Wales section 39 of the 1974 Act;*
- *any health and safety regulation; and*
- *the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule and of the Regulations, orders or other instruments of a*

legislative character made or having effect under any provision so specified;

(as in force from time to time).

3 An inspector of the Health and Safety Executive, appointed under section 19 of the 1974 Act, and entitled to exercise the powers of an inspector specified in:

- *section 20 of the 1974 Act.*

4 An Employment Medical Adviser of the Health and Safety Executive, entitled to exercise the powers of an employment medical adviser specified in:

- *any health and safety regulation; and*
- *the provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the third column of that Schedule and of the Regulations, orders or other instruments of a legislative character made or having effect under any provision so specified;*

(as in force from time to time).

Working time Regulations

5 An inspector of the Health and Safety Executive, appointed under regulation 28(7) of, and paragraph 1(1) of Schedule 3 to, the Working Time Regulations 1998 ('the Regulations'), and entitled to:

- *exercise the powers specified in Schedule 3 to the Regulations and to prosecute before a*

Magistrates Court proceedings for an offence under the 1998 Regulations pursuant to regulation 29D, as inserted by regulation 10 of the Working Time (Amendment) Regulations 2003 (SI 2003 No 1684).

6 An inspector of the Health and Safety Executive, appointed under regulation 28(7) of, and paragraph 1(1) of Schedule 3 to, the Working Time Regulations 1998, and entitled to:

- *exercise the powers of an inspector specified in regulation 28(7) of, and paragraphs 2(2), 2(3), 2(4) and 2(5) of Schedule 3 to, the 1998 Regulations, as inserted by regulation 10 of the Working Time (Amendment) Regulations 2003 (SI 2003 No 1684).*

Employers' Liability (Compulsory) Insurance) Act 1969

7 An inspector of the Health and Safety Executive appointed for the purposes of the Employers' Liability (Compulsory Insurance) Act 1969 and Regulations made thereunder, and entitled to exercise the powers of an inspector specified in section 4 of the 1969 Act to:

- *issue notices pursuant to the powers contained in regulation 6 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 1998 No 2573); and to*
- *inspect, during the currency of the insurance, the policy of insurance or a copy, pursuant to regulation 7 of the Employers' Liability (Compulsory Insurance) Regulations 1998 (SI 1998 No 2573).*

**Food and Environment Protection Act 1985
Plant Protection Products Regulations 2011
Plant Protection Products (Sustainable Use)
Regulations 2012**

8 A person authorised by the Executive pursuant to section 19(1) of the Food and Environment Protection Act 1985 ('the 1985 Act'), regulation 7(1) of the Plant Protection Products Regulations 2011 (2011 No. 2131) and regulation 20(1) of the Plant Protection Products (Sustainable Use) Regulations 2012 (2012 No.1657) (pursuant to (i) an agreement made with the Secretary of State under section 13(4) of the Health and Safety at Work etc. Act 1974 ("the 1974 Act") and (ii) an agreement made with the Welsh Ministers under Section 13(4) of the 1974 Act and section 83 of the Government of Wales Act 2006 both of which came into force on 19th July 2012) is authorised, subject to the limitations specified in the Schedule below, to exercise the powers set out in:

- *Part III of the 1985 Act in relation to contraventions of the Control of Pesticides Regulations 1986 (1986 No. 1510, as amended by 1997 No 188 and 2011 No. 2131);*
- *Schedule 1 to the Plant Protection Products Regulations 2011 (2011 No. 2131); and*
- *Schedule 3 to the Plant Protection Products (Sustainable Use) Regulations 2012 (2012 No.1657) in England and Wales.*

Schedule

The authorisation does not apply to enforcement in or in relation to:

- *premises for which a local authority is the enforcing authority for the relevant statutory*

provisions (within the meaning of the 1974 Act) by virtue of regulation 3, 5 or 6 of the Health and Safety (Enforcing Authority) Regulations 1998 (SI 1998 No 494) except for enforcement in or in relation to non-domestic premises where the main activity is the sale or storage of goods for retail or wholesale distribution other than as agreed by the relevant local authority; or

- *activities and operational premises for which the Office of Rail Regulation is the enforcing authority for the relevant statutory provisions (within the meaning of the 1974 Act) by virtue of regulation 3 of the Health and Safety (Enforcing Authority for Railways and Other Guided Transport Systems) Regulations 2006 (SI 2006 No 557);*

Any reference in this authorisation to an enactment is a reference to that enactment as amended

Environmental Protection Act 1990

9 An inspector of the Health and Safety Executive appointed under section 114(1) of the said Act of 1990 and in pursuance of an agreement under section 125(1) of the Environmental Protection Act 1990 and section 13(1)(b) of the Health and Safety at Work etc Act 1974 made on the 2 February 1993 authorised:

- *under section 114(4) of that Act to prosecute for an offence; and*
- *to perform the functions of the Secretary of State specified in sections 110, 115, 116, 117, 118(10) and 121 of that Act.*

Regulatory Reform (Fire Safety) Order 2005 and Fire (Scotland) Act 2005

10 Pursuant to Article 26(1) of the Regulatory Reform (Fire Safety) Order 2005 and section 61(3) of the Fire (Scotland) Act 2005 appointed:

- *to be an inspector for the purposes of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005 No 1541) and Regulations made thereunder, entitled to exercise in England and Wales, the powers of an inspector provided for in Article 26 and as specified in Articles 27, 28, 29, 30 and 31 of the 2005 Order; and*
- *to be an enforcement officer for the purposes of the Fire (Scotland) Act 2005 and Regulations made thereunder (SSI 2005 No 344), entitled to exercise in Scotland the powers of an enforcement officer as specified in sections 61, 62, 63, 64 and 65 of the 2005 Act.*

Electricity Act 1989

11 An electrical inspector appointed under section 30(1) of the Electricity Act 1989, authorised to:

- enforce the Electricity Act 1989; and*
- carry out the functions set out in regulations 30, 31, 32, 33 and 34 of the Electricity Safety, Quality and Continuity Regulations 2002 (S.I. 2002 No. 2665) as amended.*

Specified Animal Pathogens Order 2008 and 2009

12 Appointed by the Health and Safety Executive ('the Executive'), in exercise of powers conferred on the Secretary of State by the Animal Health Act 1981 ('the 1981 Act' and Article 11 of, in each case, the Specified Animal Pathogens Order 2008 (SI 2008/944), the Specified Animal Pathogens (Wales) Order 2008 (SI 2008/1270 (W.129)), and the Specified Animal Pathogens (Scotland) Order 2009 (SSI 2009/45) ('the Orders'), and pursuant to agreements under, in each case, Section 13(4) of the Health and Safety at Work Act 1974 between the Secretary of State and the Executive, the Executive and the Welsh Ministers, and the Executive and the Scottish Ministers dated, respectively, 25 April 2008, 1 December 2008 and 1 September 2009, and hereby authorised to exercise the powers of an inspector specified in Articles 6, 7 and 8 and Schedule 2 of the Orders, in addition to the powers set out in the 1981 Act, for the purposes of enforcing the Orders. :

Schedule 2

General powers of inspectors

1.—(1) *The inspector may be accompanied by such other persons as the inspector considers necessary.*

(2) *For the purposes of enforcing this Order an inspector may—*

- (a) take any necessary equipment or materials on to the premises;

- (b) make such examination and investigation as may in any circumstances be necessary, and may direct that the premises, any part of the premises or anything in the premises be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation;*
- (c) take measurements or photographs or make recordings;*
- (d) take samples of any articles or substances, or the atmosphere (both on the premises and in the vicinity of the premises);*
- (e) cause any article or substance to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose of the process or test);*
- (f) take possession of any article or substance and detain it for so long as is necessary—*
 - (i) to examine it and do to it anything that the inspector has power to do ;*
 - (ii) to ensure that it is not tampered with before the examination is completed;*
 - (iii) to ensure that it is available for use as evidence in any civil or criminal proceedings;*
- (g) require any person whom the inspector has reasonable cause to believe to be able to give any information (including that person's name and address) relevant to any examination or investigation to answer (in*

the absence of persons other than a person nominated by that person to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of the answers;

- (h) require the production of, inspect, and take copies of any licence issued under this Order or any record, or remove it to enable it to be copied and examined;*
- (i) require any person to afford such facilities and assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred by this Schedule;*
- (j) have access to, inspect and check the operation of any computer and any associated apparatus or material that is or has been in use in connection with the records; and for this purpose may require any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material to afford such assistance as may reasonably be required and, where a record is kept by means of a computer, may require the records to be produced in a form in which they may be taken away.*

(3) An inspector who proposes to exercise the power conferred by sub-paragraph (2)(e) above in the case of an article or substance found in any premises must, if so requested by a person who at the time is present in and has

responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person.

(4) Before exercising the power conferred by sub-paragraph (2)(e) in the case of any article or substance, an inspector must consult such persons as appear appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything proposed to be done under that power.

(5) Where an inspector takes possession of any article or substance found in any premises, the inspector must leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that it has been taken under that power; and before taking possession of any such substance under that power an inspector must, if it is practicable to do so, take a sample of it and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(6) No answer given by a person in pursuance of a requirement imposed under sub-paragraph (2)(g) is admissible in evidence against that person or the spouse or civil partner of that person in any proceedings.

Seizure of pathogens

2.—(1) Where an inspector has reasonable grounds for suspecting that a specified animal pathogen or a carrier is in the possession of a person who does not hold a licence required by

this Order or in contravention of a condition of a licence granted under this Order, that inspector may at any time seize, or cause to be seized, such pathogen, carrier or any material in which the inspector reasonably suspects such pathogen to have been kept or into which they reasonably suspect it to be introduced.

(2) If the inspector considers it expedient to do so, that inspector may for the purpose of preventing the introduction or spreading of disease, detain, treat or destroy any pathogen, carrier or material seized.

Cleansing and disinfection

3.—(1) An inspector may, by notice served upon the occupier of any premises (including a dwelling house) or upon the owner or person in charge of any vehicle by which a specified pathogen, carrier or material is or has been present in contravention of this Order or of a licence issued under it, require the person on whom the notice was served to cleanse and disinfect such premises, place or vehicle in such manner as that inspector may by such notice specify at the expense of the person on whom the notice is served.

(2) Where the requirements of such a notice have not been complied with, the inspector may carry out or cause to be carried out the cleansing and disinfection specified in the notice at the expense of the person on whom the notice has been served.

REACH Enforcement Regulations 2008 (SI 2008 no. 2852)

An inspector of the Health and Safety Executive, appointed under section 19 of the Health and Safety at Work etc Act 1974 and authorised under regulation 10 of the REACH Enforcement Regulations 2008 ('the Regulations') by virtue of regulation 10(2) of the Regulations, and entitled to:

- 1 exercise the powers specified in Part 2 of Schedule 6 of the Regulations, pursuant to regulation 9(1) of the Regulations; and
- 2 prosecute before a court of summary jurisdiction in England and Wales proceedings for an offence committed under regulation 11 or 13 of the Regulations, pursuant to regulation 17(1) of the Regulations.

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