

[REDACTED]

From: [REDACTED]
Sent: 05 November 2009 11:29
To: [REDACTED]
Subject: FW: FEPA - section 20 and [REDACTED]

Hi [REDACTED]

[REDACTED] comments on Section 20 of FEPA

Regards

[REDACTED]
Pesticides Registration & Enforcement Policy
Chemicals Regulation Directorate
Health & Safety Executive
Mallard House
Kings Pool
3 Peasholme Green
York
YO1 7PX
Telephone: [REDACTED]
Email: [REDACTED]

From: [REDACTED]
Sent: Wednesday, November 04, 2009 4:09 PM
To: [REDACTED]
Subject: FEPA - section 20 and [REDACTED]

Dear [REDACTED]

Thank you for your two substantive e-mails on this matter. I agree with the conclusions reached by the CPS lawyers.

Section 20 of FEPA provides, in effect, that a NE officer shall not perform any functions in relation to land in which the only interest is the Crown's; or one or other of the Duchies, or which is exclusively in Crown occupation.

Definitions of "Crown interest", "Duchy interest" and "Crown occupation" are set out in section 20(5) of FEPA. I will not set them out here, but the key issue in deciding whether we are dealing with any of them is whether the Queen has an interest in, or occupation of [REDACTED] "in right of the Crown" or "in right of the Duchy of Lancaster". Neither the Duchy of Cornwall nor government departments are involved in this particular case.

- [REDACTED] s:-
- a) according to the [REDACTED] website - "the private home of four generations of British Monarchs" and
 - b) according to the Crown Estates website - one of " Her Majesty The Queen's private possessions handed down from previous generations"

This suggests that the [REDACTED] is not "in right of the Crown" or "in right of the Duchy of Lancaster " [REDACTED]
[REDACTED] Therefore, section 20(5) is not relevant in this particular case.

Could you please forward this e-mail to [REDACTED] at HSE (I do not have their e-mail addresses) as they both have an interest in matters relating to the Crown.

I hope this assists.

Best wishes

[REDACTED]

[REDACTED]

Treasury Solicitor's Department
8.12 One Kemble Street

[REDACTED]

[REDACTED]

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[REDACTED]

From: [REDACTED]
Sent: 02 November 2009 11:56
To: [REDACTED]
Subject: RE: Wildlife Case and Section 20 of FEPA

Hi [REDACTED]

This is not urgent, the police are leading on this case at the moment and are taking the line that section 20 of FEPA does not apply. I haven't been updated to whether there has been any further problems regarding access to the estate, but I know enquiries are still on going as the hawk and the pigeon bait have tested positive for pesticide poisoning.

Your interpretation of what Section 20 of FEPA covers will be useful for future cases we may have.

Below is a further email that [REDACTED] the Natural England Officer dealing with this case.

[REDACTED] did a bit of internet research over the weekend and found the following:

Having visited the official website of 'The British Monarchy' and the 'Crown Estate' website, both refer to the 'private estates' of the Queen and list [REDACTED] in this category. They are referred to as 'private possessions'.

I do not consider they fall under section 20 FEPA.

'Crown Land' - this is a phrase has a variety of meanings depending on the context and is used to cover both the privately owned land and the Government managed land that belongs to the Monarch in her own right as well as in right of 'The Crown', or used by the Sovereign officially. See Crown Estate website.

FEPA however uses the terms 'Crown interest' and 'Crown occupation' and then defines them.

I've sent an email to CPS HQ to confirm my understanding - co-incidentally I am down there on Weds so will have a reply by then!

[REDACTED]

[REDACTED]
Crown Prosecution Service,

Regards

[REDACTED]

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YO1 7PX
Telephone: [REDACTED]
[REDACTED]

From: [REDACTED]
Sent: Monday, November 02, 2009 10:58 AM

To: [REDACTED]
Subject: RE: Wildlife Case and Section 20 of FEPA

I have just returned from leave and attempting to prioritise my workload. When do you need the advice on this one?

Best wishes

[REDACTED]
From: [REDACTED]
Sent: 23 October 2009 13:35
To: [REDACTED]
Subject: Wildlife Case and Section 20 of FEPA

Hi [REDACTED]

Could you please give me your opinion on a Wildlife case.

There has been an incident of a possible poisoning of a sparrow hawk. The bird was found dead with no sign of obvious trauma, next to the hawk was a dead pigeon that had its chest to abdomen cut open, there was also another pigeon a few feet away in the same condition.

A Natural England (NE) officer has collected some of the evidence (the, hawk, pigeons, bait, paperwork) relating to this case under his FEPA powers, however the police are leading on this case and they will be taking any prosecution action.

The complication with this case is that it occurred on [REDACTED]

When the NE officer went back to [REDACTED] to obtain some paperwork that wasn't available to him on his earlier visit he was met by estate agents and the estates solicitor and was subjected (in his words) to fairly aggressive questioning from them on the powers he was acting under. When the NE Officer mentioned FEPA he was asked if he was acting in accordance with section 20 of FEPA.

[REDACTED] seems to be claiming that FEPA powers do not cover Crown/Duchy of Cornwall land.

The piece below is the response from [REDACTED] of the Crown Prosecution Service

My understanding is that there is a difference between those things belonging to Her Majesty in her personal capacity and those in her official capacity as Monarch. The definition in sec 20(5) refer to the 'official' aspects of the Monarchy, hence the term 'belonging to...in right of the Crown' and then reference to Government departments. It is not suggested that the Duchies of Lancaster or Cornwall are relevant here.

I had considered the section and believed it does not apply here, as this I understand to be private property owned in the same way as any other private property is.

If the estate are seeking to claim that they come within section 20(5) I would expect this to be asserted with the authority of a Solicitor's letter setting out why this is the case.

You may wish to do a Land Registry check to see what that shows as to ownership.

I would be grateful for your comments not only for this case but for possible cases in the future.

Thanks

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or Contact HSE Infoline on 0845 345 0055 or Email on hse.infoline@natbrit.com

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