
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 320

The Sea Fishing (EU Control Measures) (Scotland) Order 2015

PART 3

ENFORCEMENT AND OBSTRUCTION OFFENCES

Powers of British sea-fishery officers in relation to fishing boats

13.—(1) For the purpose of enforcing this Order, or any equivalent provision, a British sea-fishery officer may exercise the powers set out in this article in relation to any—

- (a) Scottish fishing boat wherever it may be; or
- (b) any other fishing boat within the Scottish zone.

(2) A British sea-fishery officer may go on board the boat, with or without persons assigned to assist in the duties of that officer, and may require the boat to stop and do anything else which will facilitate either the boarding of, or the disembarkation from, the boat.

(3) A British sea-fishery officer may require the attendance of the master and other persons on board the boat and may make any examination and inquiry which appears to that officer to be necessary for the purposes of enforcement referred to in paragraph (1) and, in particular, may—

- (a) search for fisheries products or fishing gear on the boat and may examine any such products on the boat and the equipment of the boat, including the fishing gear, and require persons on board the boat to do anything which appears to that officer to be necessary for facilitating the examination;
- (b) require any person on board the boat to produce any document relating to the boat, to any fishing operations ancillary thereto or to the persons on board, which is in the custody or possession of that person;
- (c) for the purpose of ascertaining whether a relevant offence has been committed, search the boat for any such document and may require any person on board the boat to do anything which appears to that officer to be necessary for facilitating the search;
- (d) inspect, take copies of and retain in the possession of that officer while any search, examination or inspection provided for under this article is being carried out, any such document produced to that officer or found on board;
- (e) require the master, or any person for the time being in charge of the boat, to render all such documents on a computer system into visible and legible form and to produce them in a form in which they may be taken away; and
- (f) where the boat is one in relation to which that officer has reason to suspect that a relevant offence has been committed, seize and detain any such document produced to that officer or found on board, for the purpose of enabling the document to be used as evidence in proceedings for the offence,

but nothing in sub-paragraph (f) permits any document required by law to be carried on board the boat to be seized and detained except while the boat is detained in a port.

(4) Where it appears to a British sea-fishery officer that a relevant offence has at any time been committed the officer may—

- (a) take, or require the master of the boat in relation to which the offence took place to take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and
- (b) detain, or require the master to detain, the boat in the port.

(5) If such an officer detains or requires the detention of a boat, the officer must serve notice in writing on the master stating that the boat is to be detained until the notice is withdrawn by the service on the master of a further notice in writing signed by a British sea-fishery officer.

Powers of British sea-fishery officers on land

14.—(1) For the purpose of enforcing this Order, or any equivalent provision, a British sea-fishery officer may—

- (a) enter and inspect at any reasonable time any premises used for carrying on any business in connection with the operation of fishing boats or any connected or ancillary activities or with the treatment, storage or sale of fisheries products;
- (b) take with the officer such other persons as appear to the officer to be necessary and any equipment or materials;
- (c) examine any fisheries product on the premises and require persons on the premises to do anything which appears to that officer to be necessary for facilitating the examination;
- (d) carry out at such premises such other inspections or tests as may reasonably be necessary;
- (e) require any person not to remove, or cause to be removed, any fisheries product from such premises for such a period as may be reasonably necessary for the purposes of establishing whether a relevant offence has at any time been committed;
- (f) require any person on the premises to produce any documents which are in the custody or possession of that person relating to the catching, landing, transportation, transshipment, sale or disposal of any fisheries product;
- (g) for the purpose of ascertaining whether an offence under this Order or any equivalent provision has been committed, search the premises for any such document and may require any person on the premises to do anything which appears to that officer to be necessary for facilitating the search;
- (h) inspect and take copies of any such document produced or found on the premises;
- (i) require any appropriate or responsible person on the premises not to remove any such document produced or found on the premises;
- (j) require any appropriate or responsible person to render any such documents on a computer system into a visible and legible form and to produce them in a form in which they may be taken away; and
- (k) if the officer has reason to suspect that a relevant offence has been committed, seize and detain any such document produced or found on the premises, for the purposes of enabling the document to be used as evidence in proceedings for the offence.

(2) The provisions of paragraph (1) apply in relation to any land used in connection with any of the activities described in paragraph (1)(a), and in respect of any vehicle which a British sea-fishery officer has reasonable cause to believe is being used to transport fisheries products, as they apply in relation to premises and, in the case of a vehicle, include the power to require the vehicle to stop at any time and, if necessary, direct the vehicle to some other place to facilitate inspection.

(3) If a sheriff, on information on oath, is—

- (a) satisfied that there are reasonable grounds to believe that any documents or other items which a British sea-fishery officer has power under this article to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under this Order or any equivalent provision; and
- (b) also satisfied either—
 - (i) that admission to the premises has been, or is likely to be, refused and that notice of intention to apply for a warrant has been given to the occupier;
 - (ii) that an application for admission or the giving of such notice would defeat the object of the entry; or
 - (iii) that the premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of the entry to await the return of the occupier,

the sheriff may by signed warrant, valid for a period of no more than one month, authorise a British sea-fishery officer to enter the premises, if need be by using reasonable force, accompanied by such persons as appear to the officer to be necessary.

- (4) If a sheriff, on information on oath, is—
 - (a) satisfied that there are reasonable grounds to believe that any computers, or other devices which may be used to record data electronically, are on the premises and their inspection is likely to disclose evidence of the commission of an offence under this Order or any equivalent provision; and
 - (b) also satisfied either—
 - (i) that admission to the premises has been, or is likely to be, refused and that notice of intention to apply for a warrant has been given to the occupier;
 - (ii) that an application for admission or the giving of such notice would defeat the object of the entry; or
 - (iii) that the premises are unoccupied, or the occupier is temporarily absent, and it would defeat the object of the entry to await the return of the occupier,

the sheriff may by signed warrant, valid for a period of no more than one month, authorise a British sea-fishery officer to enter the premises, if need be by using reasonable force, accompanied by such persons as appear to the officer to be necessary, and to search for and seize any computers or other devices in which data may be recorded in electronic form, including any related equipment, and to undertake forensic examination of any such computers or other devices including the copying of data and files held on any such computers or devices.

Powers of British sea-fishery officers to seize fish and fishing gear

15.—(1) Any British sea-fishery officer may seize—

- (a) in Scotland or in the Scottish zone; or
- (b) on board a Scottish fishing boat wherever it may be,

any fisheries product (including any receptacle which contains such product) and any net or other fishing gear to which this article applies.

- (2) This article applies to—
 - (a) any fisheries product (including any receptacle which contains the fisheries product), in respect of which the officer has reasonable grounds to suspect that a relevant offence has been committed; and
 - (b) any net or other fishing gear which the officer has reasonable grounds to suspect has been used in commission of such an offence.

Protection of officers

16.—(1) A person mentioned in paragraph (2) is not to be liable in any civil or criminal proceedings for anything done (or omitted to be done) in, or in connection with, the exercise or purported exercise of the powers conferred by this Order.

(2) The persons are—

- (a) any British sea-fishery officer;
- (b) any person assisting a British sea-fishery officer by virtue of this Part.

(3) Paragraph (1) does not apply if—

- (a) the act or omission is shown to have been in bad faith;
- (b) there were no reasonable grounds for the act or omission; or
- (c) the act was carried out without reasonable skill or care.

Obstruction of officers

17. It is an offence for any person to—

- (a) fail without reasonable excuse to comply with any requirement imposed by a British sea-fishery officer under the powers conferred by this Order;
- (b) without reasonable excuse prevent, or attempt to prevent, any other person from complying with any such requirement;
- (c) conceal, tamper with or dispose of evidence relating to an investigation; or
- (d) assault an officer who is exercising any of the powers conferred by this Order.

Changes to legislation:

There are currently no known outstanding effects for the The Sea Fishing (EU Control Measures) (Scotland) Order 2015, PART 3.