



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 8

ENFORCEMENT

CHAPTER 1

ENFORCEMENT OFFICERS

Marine enforcement officers

235 Marine enforcement officers

- (1) In this Chapter “marine enforcement officer” means—
 - (a) any person appointed as such an officer by the MMO;
 - (b) any person appointed as such an officer by the Welsh Ministers;
 - (c) any person who is a commissioned officer of any of Her Majesty's ships;
 - (d) any person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.
- (2) The carrying out of any functions of a marine enforcement officer by a person appointed under this section by the MMO or the Welsh Ministers (a “civilian marine enforcement officer”) is subject to any limitations specified by the MMO or (as the case may be) the Welsh Ministers in relation to that person.
- (3) Until the coming into force of section 1, any power conferred on the MMO by this section is exercisable by the Secretary of State.

Any reference in this Chapter to a marine enforcement officer includes a reference to any person appointed by the Secretary of State as a marine enforcement officer by virtue of this subsection.

Status: Point in time view as at 31/10/2015.

Changes to legislation: Marine and Coastal Access Act 2009, Cross Heading: Marine enforcement officers is up to date with all changes known to be in force on or before 27 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C1** S. 235 applied (E.) (31.10.2015) by [The Grants for Fishing and Aquaculture Industries Regulations 2015 \(S.I. 2015/1711\)](#), regs. 1(1), **14(1)**

Commencement Information

- II** S. 235 in force at 12.1.2010 by [S.I. 2009/3345](#), art. 2, [Sch. para. 17](#)

236 Enforcement of marine licensing regime

- (1) For the purposes of enforcing Part 4 of this Act, a marine enforcement officer has—
- (a) the common enforcement powers conferred by this Act;
 - (b) the power conferred by section 263.
- This is subject to subsection (2).
- (2) A marine enforcement officer does not have the powers referred to in subsection (1) for the purposes of enforcing Part 4 of this Act so far as relating to—
- (a) any activity in Wales or the Welsh inshore region concerning or arising from the exploration for, or production of, petroleum;
 - (b) anything done in the course of taking installation abandonment measures in any other part of the relevant enforcement area.
- (3) Subject to subsection (8), the powers which a marine enforcement officer has for the purposes of enforcing Part 4 of this Act may be exercised—
- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine structure in that area);
 - (b) in relation to any vessel or marine structure outside the UK marine area which was loaded within the relevant enforcement area;
 - (c) in relation to any British vessel, British aircraft or British marine structure outside the UK marine area;
 - (d) in Scotland or the Scottish inshore region, in relation to an offence which the officer reasonably believes has been committed—
 - (i) within the relevant enforcement area, or
 - (ii) outside the UK marine area and in circumstances where a vessel, aircraft or marine structure referred to in paragraph (b) or (c) was involved in the commission of the offence;
 - (e) in relation to any vessel, aircraft or marine structure in the Scottish offshore region which has been pursued there in accordance with subsection (4).
- (4) A vessel, aircraft or marine structure is pursued in accordance with this subsection if—
- (a) immediately before the pursuit of the vessel, aircraft or structure commences, the vessel, aircraft or structure is in the relevant enforcement area,
 - (b) before the pursuit of the vessel, aircraft or structure commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, aircraft or structure is not interrupted.
- (5) The signal referred to in subsection (4)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or structure in question.

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- (6) For the purposes of subsection (4)(c), pursuit is not interrupted by reason only of the fact that—
- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit,
- changes during the course of the pursuit.
- (7) Nothing in this section affects any right of hot pursuit which a marine enforcement officer may have under international law.
- (8) The powers which a civilian marine enforcement officer has for the purposes of enforcing Part 4 of this Act may not be exercised in relation to any British warship.
- (9) In this section—
- “installation abandonment measures” means any measures taken in connection with the abandonment of—
 - (a) an offshore installation or submarine pipeline, within the meaning of Part 4 of the Petroleum Act 1998 (c. 17), or
 - (b) a carbon storage installation, within the meaning of section 30 of the Energy Act 2008 (c. 32),whether or not the measures are taken in pursuance of an abandonment programme;
 - “abandonment programme” means—
 - (a) an abandonment programme under Part 4 of the Petroleum Act 1998;
 - (b) an abandonment programme under that Part, as it applies by virtue of section 30 of the Energy Act 2008;
 - “the relevant enforcement area” means the area that consists of—
 - (a) England and Wales and Northern Ireland, and
 - (b) the UK marine licensing area, excluding the Scottish offshore region.
- (10) Any term used in this section and in Part 4 of this Act has the same meaning in this section as it has in that Part.

Commencement Information

I2 S. 236 in force at 6.4.2011 by S.I. 2011/556, art. 3(2)(b)

237 Enforcement of nature conservation legislation

- (1) For the purposes of enforcing the nature conservation legislation, a marine enforcement officer has the common enforcement powers conferred by this Act.
- (2) In this section “the nature conservation legislation” means—
- (a) sections 1 and 2 of the Conservation of Seals Act 1970 (c. 30), and any orders made under section 3 of that Act;
 - (b) sections 1, 5 to 7, 9, 11, 13, 14 and 14ZA of the Wildlife and Countryside Act 1981 (c. 69);
 - ^{F1}(c)
 - ^{F1}(d)

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- (e) the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 (S.I. 2007/1842);
 - (f) any byelaws made under section 129 or 132 of this Act;
 - (g) any orders made under section 134 or 136 of this Act;
 - (h) section 140 of this Act.
 - [^{F2}(i) regulations 41, 43, 45, 52, 57, 58 and 116(1) and (2) of the Conservation of Habitats and Species Regulations 2010 (S.I. 2010/490);
 - (j) any byelaws or orders made by virtue of regulation 30 or 38 of those Regulations.]
- (3) Subject to subsections (8) and (9), the powers which a marine enforcement officer has for the purposes of enforcing the nature conservation legislation may be exercised—
- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine installation in that area);
 - (b) in relation to any British vessel or British marine installation outside the UK marine area;
 - (c) in Scotland or Northern Ireland, or the Scottish or Northern Ireland inshore region, in relation to an offence which the officer reasonably believes has been committed—
 - (i) within the relevant enforcement area, or
 - (ii) outside the UK marine area and in circumstances where a British vessel or British marine installation was involved in the commission of the offence;
 - (d) in relation to any vessel, aircraft or marine installation in the Scottish offshore region which has been pursued there in accordance with subsection (4).
- (4) A vessel, aircraft or marine installation is pursued in accordance with this subsection if—
- (a) immediately before the pursuit of the vessel, aircraft or installation commences, the vessel, aircraft or installation is in the relevant enforcement area,
 - (b) before the pursuit of the vessel, aircraft or installation commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, aircraft or installation is not interrupted.
- (5) The signal referred to in subsection (4)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or installation in question.
- (6) For the purposes of subsection (4)(c), pursuit is not interrupted by reason only of the fact that—
- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit, changes during the course of the pursuit.
- (7) Nothing in this section affects any right of hot pursuit which a marine enforcement officer may have under international law.
- (8) The powers which a civilian marine enforcement officer has for the purposes of enforcing the nature conservation legislation may not be exercised in relation to any British warship.

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- (9) The powers which a marine enforcement officer has for the purposes of enforcing the nature conservation legislation may not be exercised in relation to any vessel within subsection (10) unless—
- (a) in the case of a third country vessel, other than a vessel falling within paragraph (b) or (c) of that subsection, the United Kingdom is entitled under international law to exercise those powers without the consent of the flag state, or
 - (b) the Commissioners have given authority to exercise those powers.
- (10) The vessels are—
- (a) a third country vessel;
 - (b) a warship that is being used by the government of a State other than the United Kingdom;
 - (c) any other vessel that is being used by such a government for any non-commercial purpose.
- (11) The Commissioners may give authority under subsection (9)(b) only if the flag state has consented to the United Kingdom exercising those powers (whether generally or in relation to the vessel in question).
- (12) In giving such authority, the Commissioners must impose such conditions or limitations on the exercise of the powers as are necessary to give effect to any conditions or limitations imposed by the flag state.
- (13) In this section—
- “British vessel” means any vessel which—
- (a) is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (c. 21),
 - (b) is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308 of that Act,
 - (c) falls within section 1(1)(d) of that Act (small ships),
 - (d) is exempt from registration under section 294 of that Act (general power to dispense),
 - (e) is a British warship, or
 - (f) is registered under the law of Gibraltar;
- “Government ship” has the same meaning as in the Merchant Shipping Act 1995;
- “the relevant enforcement area” means the area that consists of—
- (a) England and Wales, and
 - (b) the UK marine area, excluding—
 - (i) the Scottish inshore region,
 - (ii) the Scottish offshore region, and
 - (iii) the Northern Ireland inshore region.

Textual Amendments

- F1** S. 237(2)(c)(d) omitted (1.4.2010) by virtue of [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), [Sch. 6 para. 5\(5\)\(a\)](#) (with reg. 125)
- F2** S. 237(2)(i)(j) added (1.4.2010) by [The Conservation of Habitats and Species Regulations 2010 \(S.I. 2010/490\)](#), reg. 1(2), [Sch. 6 para. 5\(5\)\(b\)](#) (with reg. 125)

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Commencement Information

I3 S. 237 in force at 12.1.2010 by [S.I. 2009/3345](#), [art. 2](#), [Sch. para. 18](#)

238 Enforcement of fisheries legislation

- (1) For the purposes of enforcing the fisheries legislation, a marine enforcement officer has—
 - (a) the common enforcement powers conferred by this Act;
 - (b) the powers conferred by sections 264, 268, 269, 279 and 284.
- (2) In this section “the fisheries legislation” means—
 - (a) any enactments relating to sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout (but see subsection (3));
 - (b) any enforceable EU restrictions and enforceable EU obligations relating to sea fishing.
- (3) “The fisheries legislation” does not include—
 - (a) the Salmon and Freshwater Fisheries Act 1975 (c. 51);
 - (b) the Salmon Act 1986 (c. 62);
 - (c) byelaws made by the Environment Agency under Schedule 25 to the Water Resources Act 1991 (c. 57);
 - [^{F3}(ca) byelaws made by the Natural Resources Body for Wales under Schedule 25 to the Water Resources Act 1991;]
 - (d) the Scotland Act 1998 (Border Rivers) Order 1999 (S.I. 1999/1746);
 - (e) byelaws made by an inshore fisheries and conservation authority under section 155.
- (4) Subject to subsection (9), the powers which a marine enforcement officer has for the purposes of enforcing the fisheries legislation may be exercised—
 - (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine installation in that area);
 - (b) in relation to any vessel, vehicle, aircraft or marine installation in any other area within the United Kingdom or the UK marine area which has been pursued there in accordance with subsection (5);
 - (c) in relation to any relevant British fishing boat in the Scottish zone or the Northern Ireland zone;
 - (d) in relation to any British vessel or British marine installation outside British fishery limits, other than a Scottish or Northern Ireland fishing boat.
- (5) A vessel, vehicle, aircraft or marine installation is pursued in accordance with this subsection if—
 - (a) immediately before the pursuit of the vessel, vehicle, aircraft or installation commences—
 - (i) the vessel, vehicle, aircraft or installation is in the relevant enforcement area, or
 - (ii) in the case of a vessel, aircraft or marine installation operating together with one or more other vessels, aircraft or marine installations to carry out a single activity, any of those vessels, aircraft or installations is in that area,

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- (b) before the pursuit of the vessel, vehicle, aircraft or installation commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, vehicle, aircraft or installation is not interrupted.
- (6) The signal referred to in subsection (5)(b) must be given in such a way as to be audible or visible from the vessel, vehicle, aircraft or installation in question.
- (7) For the purposes of subsection (5)(c), pursuit is not interrupted by reason only of the fact that—
- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel, vehicle or aircraft carrying out the pursuit, changes during the course of the pursuit.
- (8) Nothing in this section affects any right of hot pursuit which a marine enforcement officer may have under international law.
- (9) The powers which a civilian marine enforcement officer has for the purposes of enforcing the fisheries legislation may not be exercised in relation to any British warship.
- (10) In this section—
- “British vessel” means any vessel which—
 - (a) is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 (c. 21),
 - (b) is wholly owned by persons qualified to own British ships for the purposes of that Part,
 - (c) is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308 of that Act, or
 - (d) is a British warship;
 - “enforceable EU obligation” means an obligation to which section 2(1) of the European Communities Act 1972 (c. 68) applies;
 - “enforceable EU restriction” means a restriction to which section 2(1) of that Act applies;
 - “Government ship” has the same meaning as in the Merchant Shipping Act 1995 (c. 21);
 - “relevant British fishing boat” means a fishing boat, other than a Scottish or Northern Ireland fishing boat, which—
 - (a) is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995, or
 - (b) is wholly owned by persons qualified to own British ships for the purposes of that Part;
 - “the relevant enforcement area” means the area that consists of—
 - (a) England and Wales, and
 - (b) the sea within British fishery limits, excluding the Scottish zone and the Northern Ireland zone.

Textual Amendments

- F3** S. 238(3)(ca) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013](#) (No. 755), art. 1(2), [Sch. 2 para. 448](#) (with Sch. 7)

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Modifications etc. (not altering text)

- C2** S. 238 applied (E.) (31.10.2015) by [The Grants for Fishing and Aquaculture Industries Regulations 2015 \(S.I. 2015/1711\)](#), regs. 1(1), **14(1)**

Commencement Information

- I4** S. 238 in force at 12.1.2010 by [S.I. 2009/3345](#), art. 2, **Sch. para. 18**

239 Marine enforcement officers as British sea-fishery officers

- (1) Section 7 of the Sea Fisheries Act 1968 (c. 77) (sea-fishery officers) is amended as follows.
- (2) In subsection (1)—
- (a) after paragraph (c) insert—
 - “(ca) persons appointed as marine enforcement officers under section 235 of the Marine and Coastal Access Act 2009;”;
 - (b) in paragraph (d), omit “of the Secretary of State or”.
- (3) After subsection (1) insert—
- “(1A) A person falling within paragraph (b), (c) or (ca) of subsection (1) above may not exercise the powers or perform the duties of a British sea-fishery officer in any case where the person may, in the person's capacity as a marine enforcement officer, exercise the common enforcement powers conferred by the Marine and Coastal Access Act 2009 (see Chapter 1 of Part 8 of that Act).”
- (4) In subsection (5) (definition of “the appropriate Minister”), omit paragraph (a).

Commencement Information

- I5** S. 239 in force at 12.1.2010 by [S.I. 2009/3345](#), art. 2, **Sch. para. 18**

Status:

Point in time view as at 31/10/2015.

Changes to legislation:

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