



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 8

ENFORCEMENT

CHAPTER 1

ENFORCEMENT OFFICERS

Marine enforcement officers

237 Enforcement of nature conservation [^{F1}or fisheries exploitation] legislation

- (1) For the purposes of enforcing the nature conservation legislation [^{F2}or the fisheries exploitation 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);
 - ^{F3}(c)
 - ^{F3}(d)
 - ^{F4}(e) the Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013);
 - (f) any byelaws made under section 129 or [^{F5}132(1)] of this Act;
 - (g) any orders made under section 134 or [^{F6}136(1)] of this Act;
 - (h) section 140 of this Act.
 - ^{F7}(i) regulations 43, 45, 47, 54, 59, 60 and 122(1) and (2) of the Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012);

Status: Point in time view as at 26/12/2023.

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- (j) any byelaws or orders made by virtue of regulation 32 or 40 of those Regulations.]

[^{F8}(2A) In this section “the fisheries exploitation legislation” means—

- (a) any byelaws made under section 129A, 129B or 132(1A) of this Act;
- (b) any orders made under section 134A, 134B, 136(1A), 137A, 137C, 137E or 137G of this Act.]

(3) Subject to subsections (8) and (9), the powers which a marine enforcement officer has for the purposes of enforcing the nature conservation legislation [^{F9}or the fisheries exploitation 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 [^{F10}or the fisheries exploitation legislation] may not be exercised in relation to any British warship.

(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—

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- (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.
- [^{F11}(9A) The powers which a marine enforcement officer has for the purposes of enforcing the fisheries exploitation legislation may not be exercised in relation to a vessel falling within paragraph (b) or (c) of subsection (10) unless 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) [^{F12}or (9A)] 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.
- [^{F13}(14) Where the fisheries exploitation legislation consists of an order made under section 137A or 137C of this Act (orders relating to Scottish offshore region), this section applies as if—
- (a) references to a marine enforcement officer included a person appointed as such by the Scottish Ministers,

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- (b) for the purposes of subsection (3)(a), the relevant enforcement area were Scotland, the Scottish inshore region and the Scottish offshore region, and
 - (c) subsections (3)(c) and (d) and (4) to (6) were omitted.
- (15) Where the fisheries exploitation legislation consists of an order made under section 137E or 137G of this Act (orders relating to Northern Ireland offshore region), this section applies as if—
- (a) references to a marine enforcement officer included a person appointed as such by the Department of Agriculture, Environment and Rural Affairs in Northern Ireland,
 - (b) for the purposes of subsection (3)(a), the relevant enforcement area were Northern Ireland, the Northern Ireland inshore region and the Northern Ireland offshore region, and
 - (c) subsections (3)(c) and (d) and (4) to (6) were omitted.]

Textual Amendments

- F1** Words in s. 237 heading inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(2)** (with Sch. 4 para. 31)
- F2** Words in s. 237(1) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(3)** (with Sch. 4 para. 31)
- F3** 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)
- F4** S. 237(2)(e) substituted (30.11.2017) by The Conservation of Offshore Marine Habitats and Species Regulations 2017 (S.I. 2017/1013), reg. 1, **Sch. 4 para. 2(3)** (with regs. 3, 4(2))
- F5** Word in s. 237(2)(f) substituted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(4)(a)** (with Sch. 4 para. 31)
- F6** Word in s. 237(2)(g) substituted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(4)(b)** (with Sch. 4 para. 31)
- F7** S. 237(2)(i)(j) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 8(4)**
- F8** S. 237(2A) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(5)** (with Sch. 4 para. 31)
- F9** Words in s. 237(3) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(6)** (with Sch. 4 para. 31)
- F10** Words in s. 237(8) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(7)** (with Sch. 4 para. 31)
- F11** S. 237(9A) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(8)** (with Sch. 4 para. 31)
- F12** Words in s. 237(11) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(9)** (with Sch. 4 para. 31)
- F13** S. 237(14)(15) inserted (23.1.2021) by Fisheries Act 2020 (c. 22), s. 54(4)(d), **Sch. 10 para. 29(10)** (with Sch. 4 para. 31)

Commencement Information

- I1** S. 237 in force at 12.1.2010 by S.I. 2009/3345, art. 2, **Sch. para. 18**

Status:

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