

MARINE (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 7 – Common Enforcement Powers Etc.: Licensing and Marine Protection Etc.

Miscellaneous and ancillary common enforcement powers

Section 143 - Power to record evidence of offences

204. *Section 143* sets out the power to record evidence of offences. It provides enforcement officers with power to use any device to take visual images of anything connected with the relevant premises which the officer believes is evidence in the investigation of a suspected offence. *Section 143(2)* describes what the power can be used in relation to and *section 143(3)* enables the officer to require a person who has some control in that situation to give assistance.

Section 144 - Power to require name and address

205. *Section 144* provides a power for marine enforcement officers to require names and addresses where they have reason to believe that a person has committed a relevant offence.

Section 145 - Power to require production of licence, etc.

206. *Section 145* provides a power to require the production of a licence. If the officer believes that someone has been undertaking an activity which needs a licence, permit, etc., the officer can require that person to produce that licence. Subsection (2) allows the person to produce the licence later if unable to do so at the time the officer demanded it.

Section 146 - Power to require attendance of certain persons

207. *Section 146* provides a power to require attendance of certain persons for the purpose of a marine enforcement officer carrying out functions where vessels or marine installations are boarded or premises are entered. This section applies when an officer has boarded a vessel or marine installation or entered any premises and needs to assemble those on the premises (for instance so that the officer can check identities of people present).

Section 147 - Power to direct vessel or marine installation to port

208. *Section 147* provides a power to direct a vessel or marine installation to port. It gives enforcement officers the power to direct a vessel or marine installation to the port they consider to be the nearest convenient port and detain it there. The section only applies in situations where an officer believes that it would not be practical to exercise a power without first taking the vessel or marine installation to port and detaining it there. *Section 147(2)* sets out powers which enable an officer to get the vessel or movable marine installation (such as a jack-up rig) to the nearest convenient port. A convenient

port may not be the nearest in terms just of distance, but may be, for example, the nearest one able to take the size of vessel or to provide a berth or suitable storage facilities. The officer may take the vessel or installation there, arrange for someone else to take it, or require the person in charge of it to take it into port. For instance, the officer might arrange for a local pilot to take the vessel into port. Section 147(3) says that, once the vessel or marine installation is in port, the officer may detain it or require the person in charge to do so. Subsections (4) to (6) explain that enforcement officers are obliged to issue a written notice of detention to the person in charge of the vessel or marine installation. The notice must state that that the vessel or marine installation will be detained until such time as the notice is withdrawn. A notice may be withdrawn by another written notice signed by any marine enforcement officer.

Section 148 - Assistance, etc.

209. **Section 148** sets out the circumstances in which a marine enforcement officer may bring along other persons when carrying out any relevant functions. This section enables enforcement officers to take other people and anything necessary (including equipment and materials) to assist them in their duties. These powers apply wherever the enforcement officer may be. Assistants could include specialists (for example, a vet if the officer was inspecting wildlife legislation). Anybody brought by the enforcement officer to assist will be supervised or directed by the officer.

Section 149 - Power to use reasonable force

210. **Section 149** enables marine enforcement officers (and their assistants) to use reasonable force if necessary in the exercise of their powers. Reasonable force might be needed to prevent documents being thrown overboard, for example.