

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010, SCHEDULE 3. (See end of Document for details)

SCHEDULE 3

(introduced by section 137(3))

WARRANTS ISSUED UNDER SECTION 137

Modifications etc. (not altering text)

- C1** Sch. 3 excluded (31.12.2010) by [The Marine \(Scotland\) Act 2010 \(Consequential Provisions\) Order 2010 \(S.I. 2010/2870\)](#), arts. 1, 10

PROSPECTIVE

Introductory

- 1 (1) This schedule has effect in relation to the issue to marine enforcement officers of warrants under section 137.
- (2) Entry into a dwelling under such a warrant is unlawful unless it complies with the provisions of this schedule.

PROSPECTIVE

Applications for warrants

- 2 (1) Where a marine enforcement officer applies for a warrant, the officer must—
- (a) state the ground on which the application is made,
 - (b) state the enactment under which the warrant would be issued,
 - (c) specify the dwelling which it is desired to enter and inspect,
 - (d) identify, so far as is practicable, the purpose for which entry is desired.
- (2) An application for a warrant must be made without notice and must be supported by evidence on oath.
- (3) The officer must answer on oath any question that the justice hearing the application asks the officer.

PROSPECTIVE

Safeguards in connection with power of entry conferred by warrant

- 3 A warrant authorises entry on one occasion only.
- 4 (1) A warrant must specify—
- (a) the name of the person who applies for it,
 - (b) the date on which it is issued,
 - (c) the enactment under which it is issued,
 - (d) the dwelling to be entered.

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- (2) A warrant must identify, so far as is practicable, the purpose for which entry is desired.
- 5 (1) 2 copies are to be made of a warrant.
- (2) The copies must be clearly certified as copies.

PROSPECTIVE

Execution of warrants

- 6 A warrant may be executed by any marine enforcement officer.
- 7 (1) A warrant may authorise persons to accompany any marine enforcement officer who is executing it.
- (2) A person authorised under this paragraph has the same powers as the officer whom the person is accompanying in respect of the execution of the warrant, but may exercise those powers only in the company of, and under the supervision of, an enforcement officer.
- 8 (1) Execution of a warrant must be within 3 months from the date of its issue.
- (2) Execution of a warrant must be at a reasonable time, unless it appears to the officer executing it that there are grounds for suspecting that the purpose of entering the dwelling may be frustrated if the officer seeks to enter at a reasonable time.
- 9 (1) Where the occupier of a dwelling that is to be entered under a warrant is present at the time when a marine enforcement officer seeks to execute the warrant, the following requirements must be satisfied—
- (a) the occupier must be told the officer's name,
 - (b) the officer must produce to the occupier documentary evidence of the fact that the officer is a marine enforcement officer,
 - (c) the officer must produce the warrant to the occupier,
 - (d) the officer must supply the occupier with a certified copy of it.
- (2) Where—
- (a) the occupier of a dwelling that is to be entered under a warrant is not present when a marine enforcement officer seeks to execute it, but
 - (b) some other person who appears to the officer to be in charge of the dwelling is present,
- sub-paragraph (1) has effect as if any reference to the occupier were a reference to that other person.
- (3) If there is no person present who appears to the marine enforcement officer to be in charge of the dwelling, the officer must leave a certified copy of the warrant in a prominent place there.

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PROSPECTIVE

Return of warrants

- 10 (1) A warrant which—
- (a) has been executed, or
 - (b) has not been executed within the time authorised for its execution,
- must be returned to the appropriate person.
- (2) In sub-paragraph (1), the appropriate person is—
- (a) in the case of a warrant issued by a sheriff, the sheriff clerk,
 - (b) in the case of a warrant issued by a justice of the peace or stipendiary magistrate, the clerk of the justice of the peace court.
- (3) A warrant that is returned under this paragraph must be retained by the person to whom it is returned for a period of 12 months.
- (4) If during that period the occupier of the dwelling to which the warrant relates asks to inspect it, the occupier must be allowed to do so.

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