

AQUACULTURE AND FISHERIES (SCOTLAND) ACT 2013

EXPLANATORY NOTES

THE ACT

Part 3 – Sea Fisheries

Enforcement of sea fisheries legislation

Section 35 – Powers of British sea-fishery officers to enforce sea fisheries legislation

115. **Section 35** seeks to modernise and provide a comprehensive set of powers for British sea-fishery officers (“BSFOs”) for the purposes of enforcing sea fisheries legislation in the Scottish enforcement area and in relation to Scottish fishing boats anywhere in the world.
116. **Section 35(1)** makes provision for BSFOs to have access to the common enforcement powers within Part 7 of the Marine (Scotland) Act 2010 and the powers conferred by section 36 (power to detain vessels in connection with court proceedings) and section 39 (power to inspect objects used in commercial sea fishing). In addition BSFOs also have access by virtue of section 35(4) to any other enforcement powers they may have under sea fisheries legislation but constrained by section 35(5) to circumstances where they are unable to exercise a power available to them either as part of the suite of enforcement powers set out in the 2010 Act or the powers contained in sections 36 or 39.
117. **Section 35(7)** modifies sections 151 to 155 of the 2010 Act with the effect that any reference to a power in Part 7 of the 2010 Act is to be construed as a reference to a power applied by section 35(1). This will confer a statutory obligation on BSFOs to provide evidence on their authority (section 151 of the 2010 Act), state their name and purpose, etc (section 152 of the 2010 Act). BSFOs would not be liable in any civil or criminal proceedings by virtue of section 154 of the 2010 Act providing certain conditions are met. Section 155 of the 2010 Act creates a number of offences in relation to BSFOs: these include where a person fails to comply with requirements made of them, provides false information, obstructs, assaults a BSFO or pretends to be one.