



Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

PART 3

SEA FISHERIES

Inspection and seizure of objects used in commercial sea fishing

39 Power to inspect and seize objects

- (1) A British sea-fishery officer may inspect any object which the officer reasonably believes has been, or is being, used for or in connection with commercial sea fishing.
- (2) The officer may lift an object out of the sea for the purpose of inspecting it under this section.
- (3) A British sea-fishery officer who has inspected an object under this section may seize the object.
- (4) The power conferred by subsection (3) may be exercised only—
 - (a) for the purpose of determining whether an offence under the sea fisheries legislation has been, or is being, committed, or
 - (b) in relation to an object that the officer reasonably believes to be evidence of the commission of such an offence.
- (5) If, having inspected an object under this section, the officer decides not to seize it under subsection (3), the officer must, if it is reasonably practicable to do so, replace the object in the location where it was found.
- (6) If it is not reasonably practicable to replace the object in accordance with subsection (5), the officer may seize the object until such time as it may be collected by its owner.
- (7) A power conferred by this section to seize an object includes power to seize—
 - (a) anything that is attached to the object,
 - (b) anything that is contained in the object.

Changes to legislation: There are currently no known outstanding effects for the Aquaculture and Fisheries (Scotland) Act 2013, Section 39. (See end of Document for details)

- (8) A reference in this section to replacing an object includes, in the case of fishing gear, a reference to re-setting the gear in the same way in which it was placed in the sea.
- (9) Anything seized under this section is to be delivered to the Scottish Ministers as soon as reasonably practicable.
- (10) In this section, “commercial sea fishing” means—
- (a) any activity for which a licence is required by virtue of an order under section 4 (licensing of fishing boats) of the Sea Fish (Conservation) Act 1967,
 - (b) any activity regulated by an order—
 - (i) under section 1 (power to make orders as to fisheries for shellfish) of the Sea Fisheries (Shellfish) Act 1967, and
 - (ii) to which section 2 (right of several fishery) or 3 (right of regulating a fishery) of that Act applies, and
 - (c) any activity regulated by an order under section 1 (general power to prohibit sea fishing in specified areas) of the Inshore Fishing (Scotland) Act 1984.
- (11) The Scottish Ministers may by order modify the definition of “commercial sea fishing” in subsection (10).

Commencement Information

II S. 39 in force at 16.9.2013 by [S.S.I. 2013/249](#), [art. 2](#)

Changes to legislation:

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