

# MARINE AND COASTAL ACCESS ACT 2009

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## EXPLANATORY NOTES

### SUMMARY AND BACKGROUND

#### **Part 8: Enforcement**

#### *Chapter 5: Common Enforcement Provisions*

#### **Introductory**

#### *Section 288: Meaning of “enforcement officer”*

717. This section defines enforcement officer as someone who has powers under this Part of the Act, save those who have powers by virtue of being an assistant to an officer.

#### **Duties of enforcement officers**

#### *Section 289: Duty to provide evidence of authority*

718. This section obliges enforcement officers who are exercising the common enforcement powers to show evidence that they have the authority to carry out their enforcement functions, when asked to do so. The duty does not apply to Marine Enforcement Officers of the Armed Services. If the officer thinks that to comply with the request immediately would create problems, such as putting the officer in personal danger or allowing evidence of an offence to be destroyed, the officer may defer complying with the request until it is practicable to do so.

#### *Section 290: Duty to state name and purpose, etc*

719. In conjunction with section 289, enforcement officers are also obliged to state their name, the power they are intending to use and reason for its use whenever they are requested to do so, although the officer may defer complying with the request if the immediate situation requires it (for example, if an officer thinks that the request is a delaying tactic to avoid the officer discovering an offence being committed at that moment in time). Someone assisting the enforcement officer need not give their name, but would need to say what power that person was proposing to exercise and the grounds for so doing, if so requested.

#### **Liability of enforcement officers**

#### *Section 291: Liability of enforcement officers etc*

720. Enforcement officers and their assistants will be protected from liability in any civil or criminal proceedings for anything done or not done as a result of carrying out their functions under the Act. This exemption from liability does not apply when an enforcement officer acts in bad faith or if there were no reasonable grounds for the officer to act in such manner, nor would it prevent damages from being awarded if the

*These notes refer to the Marine and Coastal Access Act 2009  
(c.23) which received Royal Assent on 12th November 2009*

officer's actions were unlawful under section 6(1) of the Human Rights Act 1998. This immunity similarly covers any person assisting an enforcement officer.

## **Offences in relation to enforcement officers**

### ***Section 292: Offences in relation to enforcement officers***

721. This section provides for a number of offences that may be committed in relation to enforcement officers or people assisting them. Anyone who fails to comply with a requirement reasonably made by an enforcement officer, or prevents any other person from so doing, is guilty of an offence. However, *subsection (2)* provides that someone who was required to produce a licence under section 257 and did not do so at the time, but complied with a requirement to produce it later, is not guilty of an offence.
722. Where a person provides information to an enforcement officer in response to a requirement made by the officer, it is also an offence for the person knowingly or recklessly to provide false information, or intentionally to fail to disclose any relevant piece of information. Anyone who assaults or intentionally obstructs an enforcement officer, when the officer is exercising his duties under this Part, is guilty of an offence. Anyone who pretends to be an enforcement officer is also guilty of an offence.