



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 8

ENFORCEMENT

CHAPTER 1

ENFORCEMENT OFFICERS

Marine enforcement officers

235 Marine enforcement officers

- (1) In this Chapter “marine enforcement officer” means—
- (a) any person appointed as such an officer by the MMO;
 - (b) any person appointed as such an officer by the Welsh Ministers;
 - (c) any person who is a commissioned officer of any of Her Majesty’s ships;
 - (d) any person in command or charge of any aircraft or hovercraft of the Royal Navy, the Army or the Royal Air Force.
- (2) The carrying out of any functions of a marine enforcement officer by a person appointed under this section by the MMO or the Welsh Ministers (a “civilian marine enforcement officer”) is subject to any limitations specified by the MMO or (as the case may be) the Welsh Ministers in relation to that person.
- (3) Until the coming into force of section 1, any power conferred on the MMO by this section is exercisable by the Secretary of State.

Any reference in this Chapter to a marine enforcement officer includes a reference to any person appointed by the Secretary of State as a marine enforcement officer by virtue of this subsection.

Status: This is the original version (as it was originally enacted).

236 Enforcement of marine licensing regime

- (1) For the purposes of enforcing Part 4 of this Act, a marine enforcement officer has—
- (a) the common enforcement powers conferred by this Act;
 - (b) the power conferred by section 263.
- This is subject to subsection (2).
- (2) A marine enforcement officer does not have the powers referred to in subsection (1) for the purposes of enforcing Part 4 of this Act so far as relating to—
- (a) any activity in Wales or the Welsh inshore region concerning or arising from the exploration for, or production of, petroleum;
 - (b) anything done in the course of taking installation abandonment measures in any other part of the relevant enforcement area.
- (3) Subject to subsection (8), the powers which a marine enforcement officer has for the purposes of enforcing Part 4 of this Act may be exercised—
- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine structure in that area);
 - (b) in relation to any vessel or marine structure outside the UK marine area which was loaded within the relevant enforcement area;
 - (c) in relation to any British vessel, British aircraft or British marine structure outside the UK marine area;
 - (d) in Scotland or the Scottish inshore region, in relation to an offence which the officer reasonably believes has been committed—
 - (i) within the relevant enforcement area, or
 - (ii) outside the UK marine area and in circumstances where a vessel, aircraft or marine structure referred to in paragraph (b) or (c) was involved in the commission of the offence;
 - (e) in relation to any vessel, aircraft or marine structure in the Scottish offshore region which has been pursued there in accordance with subsection (4).
- (4) A vessel, aircraft or marine structure is pursued in accordance with this subsection if—
- (a) immediately before the pursuit of the vessel, aircraft or structure commences, the vessel, aircraft or structure is in the relevant enforcement area,
 - (b) before the pursuit of the vessel, aircraft or structure commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, aircraft or structure is not interrupted.
- (5) The signal referred to in subsection (4)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or structure in question.
- (6) For the purposes of subsection (4)(c), pursuit is not interrupted by reason only of the fact that—
- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit,
- changes during the course of the pursuit.
- (7) Nothing in this section affects any right of hot pursuit which a marine enforcement officer may have under international law.
- (8) The powers which a civilian marine enforcement officer has for the purposes of enforcing Part 4 of this Act may not be exercised in relation to any British warship.

(9) In this section—

“installation abandonment measures” means any measures taken in connection with the abandonment of—

- (a) an offshore installation or submarine pipeline, within the meaning of Part 4 of the [Petroleum Act 1998 \(c. 17\)](#), or
- (b) a carbon storage installation, within the meaning of section 30 of the [Energy Act 2008 \(c. 32\)](#),

whether or not the measures are taken in pursuance of an abandonment programme;

“abandonment programme” means—

- (a) an abandonment programme under Part 4 of the [Petroleum Act 1998](#);
- (b) an abandonment programme under that Part, as it applies by virtue of section 30 of the [Energy Act 2008](#);

“the relevant enforcement area” means the area that consists of—

- (a) England and Wales and Northern Ireland, and
- (b) the UK marine licensing area, excluding the Scottish offshore region.

(10) Any term used in this section and in Part 4 of this Act has the same meaning in this section as it has in that Part.

237 Enforcement of nature conservation legislation

(1) For the purposes of enforcing the nature conservation legislation, a marine enforcement officer has the common enforcement powers conferred by this Act.

(2) In this section “the nature conservation legislation” means—

- (a) sections 1 and 2 of the [Conservation of Seals Act 1970 \(c. 30\)](#), and any orders made under section 3 of that Act;
- (b) sections 1, 5 to 7, 9, 11, 13, 14 and 14ZA of the [Wildlife and Countryside Act 1981 \(c. 69\)](#);
- (c) regulations 37C, 39, 41 and 43 of the Conservation (Natural Habitats, &c) Regulations 1994 ([S.I. 1994/2716](#));
- (d) any byelaws or orders made by virtue of regulation 28 or 36 of those Regulations;
- (e) the Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 ([S.I. 2007/1842](#));
- (f) any byelaws made under section 129 or 132 of this Act;
- (g) any orders made under section 134 or 136 of this Act;
- (h) section 140 of this Act.

(3) Subject to subsections (8) and (9), the powers which a marine enforcement officer has for the purposes of enforcing the nature conservation legislation may be exercised—

- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine installation in that area);
- (b) in relation to any British vessel or British marine installation outside the UK marine area;
- (c) in Scotland or Northern Ireland, or the Scottish or Northern Ireland inshore region, in relation to an offence which the officer reasonably believes has been committed—

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- (i) within the relevant enforcement area, or
 - (ii) outside the UK marine area and in circumstances where a British vessel or British marine installation was involved in the commission of the offence;
- (d) in relation to any vessel, aircraft or marine installation in the Scottish offshore region which has been pursued there in accordance with subsection (4).
- (4) A vessel, aircraft or marine installation is pursued in accordance with this subsection if—
 - (a) immediately before the pursuit of the vessel, aircraft or installation commences, the vessel, aircraft or installation is in the relevant enforcement area,
 - (b) before the pursuit of the vessel, aircraft or installation commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, aircraft or installation is not interrupted.
- (5) The signal referred to in subsection (4)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or installation in question.
- (6) For the purposes of subsection (4)(c), pursuit is not interrupted by reason only of the fact that—
 - (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit,changes during the course of the pursuit.
- (7) Nothing in this section affects any right of hot pursuit which a marine enforcement officer may have under international law.
- (8) The powers which a civilian marine enforcement officer has for the purposes of enforcing the nature conservation legislation may not be exercised in relation to any British warship.
- (9) The powers which a marine enforcement officer has for the purposes of enforcing the nature conservation legislation may not be exercised in relation to any vessel within subsection (10) unless—
 - (a) in the case of a third country vessel, other than a vessel falling within paragraph (b) or (c) of that subsection, the United Kingdom is entitled under international law to exercise those powers without the consent of the flag state, or
 - (b) the Commissioners have given authority to exercise those powers.
- (10) The vessels are—
 - (a) a third country vessel;
 - (b) a warship that is being used by the government of a State other than the United Kingdom;
 - (c) any other vessel that is being used by such a government for any non-commercial purpose.
- (11) The Commissioners may give authority under subsection (9)(b) only if the flag state has consented to the United Kingdom exercising those powers (whether generally or in relation to the vessel in question).

- (12) In giving such authority, the Commissioners must impose such conditions or limitations on the exercise of the powers as are necessary to give effect to any conditions or limitations imposed by the flag state.
- (13) In this section—
- “British vessel” means any vessel which—
 - (a) is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995 \(c. 21\)](#),
 - (b) is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308 of that Act,
 - (c) falls within section 1(1)(d) of that Act (small ships),
 - (d) is exempt from registration under section 294 of that Act (general power to dispense),
 - (e) is a British warship, or
 - (f) is registered under the law of Gibraltar;
 - “Government ship” has the same meaning as in the [Merchant Shipping Act 1995](#);
 - “the relevant enforcement area” means the area that consists of—
 - (a) England and Wales, and
 - (b) the UK marine area, excluding—
 - (i) the Scottish inshore region,
 - (ii) the Scottish offshore region, and
 - (iii) the Northern Ireland inshore region.

238 Enforcement of fisheries legislation

- (1) For the purposes of enforcing the fisheries legislation, a marine enforcement officer has—
- (a) the common enforcement powers conferred by this Act;
 - (b) the powers conferred by sections 264, 268, 269, 279 and 284.
- (2) In this section “the fisheries legislation” means—
- (a) any enactments relating to sea fishing, including any enactment relating to fishing for shellfish, salmon or migratory trout (but see subsection (3));
 - (b) any enforceable EU restrictions and enforceable EU obligations relating to sea fishing.
- (3) “The fisheries legislation” does not include—
- (a) the [Salmon and Freshwater Fisheries Act 1975 \(c. 51\)](#);
 - (b) the [Salmon Act 1986 \(c. 62\)](#);
 - (c) byelaws made by the Environment Agency under Schedule 25 to the [Water Resources Act 1991 \(c. 57\)](#);
 - (d) the Scotland Act 1998 (Border Rivers) Order 1999 ([S.I. 1999/1746](#));
 - (e) byelaws made by an inshore fisheries and conservation authority under section 155.
- (4) Subject to subsection (9), the powers which a marine enforcement officer has for the purposes of enforcing the fisheries legislation may be exercised—

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- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine installation in that area);
 - (b) in relation to any vessel, vehicle, aircraft or marine installation in any other area within the United Kingdom or the UK marine area which has been pursued there in accordance with subsection (5);
 - (c) in relation to any relevant British fishing boat in the Scottish zone or the Northern Ireland zone;
 - (d) in relation to any British vessel or British marine installation outside British fishery limits, other than a Scottish or Northern Ireland fishing boat.
- (5) A vessel, vehicle, aircraft or marine installation is pursued in accordance with this subsection if—
- (a) immediately before the pursuit of the vessel, vehicle, aircraft or installation commences—
 - (i) the vessel, vehicle, aircraft or installation is in the relevant enforcement area, or
 - (ii) in the case of a vessel, aircraft or marine installation operating together with one or more other vessels, aircraft or marine installations to carry out a single activity, any of those vessels, aircraft or installations is in that area,
 - (b) before the pursuit of the vessel, vehicle, aircraft or installation commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, vehicle, aircraft or installation is not interrupted.
- (6) The signal referred to in subsection (5)(b) must be given in such a way as to be audible or visible from the vessel, vehicle, aircraft or installation in question.
- (7) For the purposes of subsection (5)(c), pursuit is not interrupted by reason only of the fact that—
- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel, vehicle or aircraft carrying out the pursuit, changes during the course of the pursuit.
- (8) Nothing in this section affects any right of hot pursuit which a marine enforcement officer may have under international law.
- (9) The powers which a civilian marine enforcement officer has for the purposes of enforcing the fisheries legislation may not be exercised in relation to any British warship.
- (10) In this section—
- “British vessel” means any vessel which—
 - (a) is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995 \(c. 21\)](#),
 - (b) is wholly owned by persons qualified to own British ships for the purposes of that Part,
 - (c) is, as a Government ship, registered in the United Kingdom in pursuance of an Order in Council under section 308 of that Act, or
 - (d) is a British warship;
 - “enforceable EU obligation” means an obligation to which section 2(1) of the [European Communities Act 1972 \(c. 68\)](#) applies;

“enforceable EU restriction” means a restriction to which section 2(1) of that Act applies;

“Government ship” has the same meaning as in the [Merchant Shipping Act 1995 \(c. 21\)](#);

“relevant British fishing boat” means a fishing boat, other than a Scottish or Northern Ireland fishing boat, which—

- (a) is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995](#), or
- (b) is wholly owned by persons qualified to own British ships for the purposes of that Part;

“the relevant enforcement area” means the area that consists of—

- (a) England and Wales, and
- (b) the sea within British fishery limits, excluding the Scottish zone and the Northern Ireland zone.

239 Marine enforcement officers as British sea-fishery officers

(1) Section 7 of the [Sea Fisheries Act 1968 \(c. 77\)](#) (sea-fishery officers) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (c) insert—

“(ca) persons appointed as marine enforcement officers under section 235 of the Marine and Coastal Access Act 2009;”;

(b) in paragraph (d), omit “of the Secretary of State”.

(3) After subsection (1) insert—

“(1A) A person falling within paragraph (b), (c) or (ca) of subsection (1) above may not exercise the powers or perform the duties of a British sea-fishery officer in any case where the person may, in the person’s capacity as a marine enforcement officer, exercise the common enforcement powers conferred by the Marine and Coastal Access Act 2009 (see Chapter 1 of Part 8 of that Act).”

(4) In subsection (5) (definition of “the appropriate Minister”), omit paragraph (a).

Other enforcement officers

240 Marine licensing: oil and gas and other reserved matters

(1) The Secretary of State may appoint persons for the purposes of enforcing Part 4 of this Act, so far as relating to—

- (a) any activity in the Scottish offshore region falling within section 113(3) (activities relating to certain reserved matters);
- (b) any activity in Wales or the Welsh inshore region concerning or arising from the exploration for, or production of, petroleum;
- (c) anything done in the course of taking installation abandonment measures in any other part of the relevant enforcement area.

(2) For the purposes referred to in subsection (1), a person appointed under this section has—

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- (a) the common enforcement powers conferred by this Act;
 - (b) the power conferred by section 263.
- (3) Subject to subsection (4), the powers which a person appointed under this section has for the purposes referred to in subsection (1) may be exercised—
- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine structure in that area);
 - (b) in relation to any vessel or marine structure outside the UK marine area which was loaded within the relevant enforcement area;
 - (c) in relation to any British vessel, British aircraft or British marine structure outside the UK marine area;
 - (d) in Scotland or Northern Ireland, or the Scottish or Northern Ireland inshore region, in relation to an offence which the person reasonably believes has been committed—
 - (i) within the relevant enforcement area, or
 - (ii) outside the UK marine area and in circumstances where a vessel, aircraft or marine structure referred to in paragraph (b) or (c) was involved in the commission of the offence.
- (4) The powers which a person appointed under this section has for the purposes referred to in subsection (1) may not be exercised in relation to any British warship.
- (5) Nothing in this section affects any right of hot pursuit which a person appointed under this section may have under international law.
- (6) In this section—
- “installation abandonment measures” means any measures taken in connection with the abandonment of—
- (a) an offshore installation or submarine pipeline, within the meaning of Part 4 of the [Petroleum Act 1998 \(c. 17\)](#), or
 - (b) a carbon storage installation, within the meaning of section 30 of the [Energy Act 2008 \(c. 32\)](#),
- whether or not the measures are taken in pursuance of an abandonment programme;
- “abandonment programme” means—
- (a) an abandonment programme under Part 4 of the [Petroleum Act 1998](#);
 - (b) an abandonment programme under that Part, as it applies by virtue of section 30 of the [Energy Act 2008](#);
- “the relevant enforcement area” means the area that consists of—
- (a) England and Wales, and
 - (b) the UK marine licensing area, excluding the Northern Ireland inshore region.
- (7) Any term used in this section and in Part 4 of this Act has the same meaning in this section as it has in that Part.

241 Marine licensing: Northern Ireland

- (1) The Department of the Environment in Northern Ireland may appoint persons for the purposes of enforcing Part 4 of this Act.

(2) For the purposes of enforcing Part 4 of this Act, a person appointed under this section has—

- (a) the common enforcement powers conferred by this Act;
- (b) the power conferred by section 263.

This is subject to subsection (3).

(3) A person appointed under this section does not have the powers referred to in subsection (2) for the purposes of enforcing Part 4 of this Act so far as relating to—

- (a) any activity in Wales or the Welsh inshore region concerning or arising from the exploration for, or production of, petroleum;
- (b) anything done in the course of taking installation abandonment measures in any other part of the relevant enforcement area, other than Northern Ireland and the Northern Ireland inshore region.

(4) Subject to subsection (9), the powers which a person appointed under this section has for the purposes of enforcing Part 4 of this Act may be exercised—

- (a) in the relevant enforcement area (and in relation to any vessel, aircraft or marine structure in that area);
- (b) in Scotland or the Scottish inshore region, in relation to an offence which the person reasonably believes has been committed within the relevant enforcement area;
- (c) in relation to any vessel, aircraft or marine structure in the Scottish offshore region which has been pursued there in accordance with subsection (5).

(5) A vessel, aircraft or marine structure is pursued in accordance with this subsection if—

- (a) immediately before the pursuit of the vessel, aircraft or structure commences, the vessel, aircraft or structure is in the relevant enforcement area,
- (b) before the pursuit of the vessel, aircraft or structure commences, a signal is given for it to stop, and
- (c) the pursuit of the vessel, aircraft or structure is not interrupted.

(6) The signal referred to in subsection (5)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or structure in question.

(7) For the purposes of subsection (5)(c), pursuit is not interrupted by reason only of the fact that—

- (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit,
- changes during the course of the pursuit.

(8) Nothing in this section affects any right of hot pursuit which a person appointed under this section may have under international law.

(9) The powers which a person appointed under this section has for the purposes of enforcing Part 4 of this Act may not be exercised in relation to any British warship.

(10) In this section—

“installation abandonment measures” means any measures taken in connection with the abandonment of—

- (a) an offshore installation or submarine pipeline, within the meaning of Part 4 of the [Petroleum Act 1998 \(c. 17\)](#), or

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(b) a carbon storage installation, within the meaning of section 30 of the [Energy Act 2008 \(c. 32\)](#),

whether or not the measures are taken in pursuance of an abandonment programme;

“abandonment programme” means—

- (a) an abandonment programme under Part 4 of the [Petroleum Act 1998](#);
- (b) an abandonment programme under that Part, as it applies by virtue of section 30 of the [Energy Act 2008](#);

“the relevant enforcement area” means the area that consists of—

- (a) England and Wales and Northern Ireland, and
- (b) the UK marine licensing area, excluding the Scottish offshore region.

(11) Any term used in this section and in Part 4 of this Act has the same meaning in this section as it has in that Part.

242 Marine licensing: enforcement in Scottish offshore region

(1) The Scottish Ministers may appoint persons for the purposes of enforcing Part 4 of this Act, except so far as relating to any activity falling within section 113(3) (activities relating to certain reserved matters).

(2) For the purposes referred to in subsection (1), a person appointed under this section has—

- (a) the common enforcement powers conferred by this Act;
- (b) the power conferred by section 263.

(3) Subject to subsection (8), the powers which a person appointed under this section has for the purposes referred to in subsection (1) may be exercised—

- (a) in the Scottish offshore region (and in relation to any vessel, aircraft or marine structure in that region);
- (b) in any area within the United Kingdom or the UK inshore region, in relation to an offence which the person reasonably believes has been committed within the Scottish offshore region;
- (c) in relation to any vessel, aircraft or marine structure in any other area within the UK marine area which has been pursued there in accordance with subsection (4).

(4) A vessel, aircraft or marine structure is pursued in accordance with this subsection if—

- (a) immediately before the pursuit of the vessel, aircraft or structure commences, the vessel, aircraft or structure is in the Scottish offshore region,
- (b) before the pursuit of the vessel, aircraft or structure commences, a signal is given for it to stop, and
- (c) the pursuit of the vessel, aircraft or structure is not interrupted.

(5) The signal referred to in subsection (4)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or structure in question.

(6) For the purposes of subsection (4)(c), pursuit is not interrupted by reason only of the fact that—

- (a) the method of carrying out the pursuit, or
- (b) the identity of the vessel or aircraft carrying out the pursuit,

changes during the course of the pursuit.

- (7) Nothing in this section affects any right of hot pursuit which a person appointed under this section may have under international law.
- (8) The powers which a person appointed under this section has for the purposes referred to in subsection (1) may not be exercised in relation to any British warship.
- (9) In this section “UK inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to the United Kingdom.
- (10) Any term used in this section and in Part 4 of this Act has the same meaning in this section as it has in that Part.

243 Enforcement of MCZs in Scottish offshore region

- (1) The Scottish Ministers may appoint persons for the purposes of enforcing section 140 of this Act.
- (2) For the purposes of enforcing section 140 of this Act, a person appointed under this section has the common enforcement powers conferred by this Act.
- (3) Subject to subsections (8) and (9), the powers which a person appointed under this section has for the purposes of enforcing section 140 of this Act may be exercised—
 - (a) in the Scottish offshore region (and in relation to any vessel, aircraft or marine installation in that region);
 - (b) in any area within the United Kingdom or the UK inshore region, in relation to an offence which the person reasonably believes has been committed within the Scottish offshore region;
 - (c) in relation to any vessel, aircraft or marine installation in any other area within the UK marine area which has been pursued there in accordance with subsection (4).
- (4) A vessel, aircraft or marine installation is pursued in accordance with this subsection if—
 - (a) immediately before the pursuit of the vessel, aircraft or installation commences, the vessel, aircraft or installation is in the Scottish offshore region,
 - (b) before the pursuit of the vessel, aircraft or installation commences, a signal is given for it to stop, and
 - (c) the pursuit of the vessel, aircraft or installation is not interrupted.
- (5) The signal referred to in subsection (4)(b) must be given in such a way as to be audible or visible from the vessel, aircraft or installation in question.
- (6) For the purposes of subsection (4)(c), pursuit is not interrupted by reason only of the fact that—
 - (a) the method of carrying out the pursuit, or
 - (b) the identity of the vessel or aircraft carrying out the pursuit,changes during the course of the pursuit.
- (7) Nothing in this section affects any right of hot pursuit which a person appointed under this section may have under international law.

Status: This is the original version (as it was originally enacted).

- (8) The powers which a person appointed under this section has for the purposes of enforcing section 140 of this Act may not be exercised in relation to any British warship.
- (9) The powers which a person appointed under this section has for the purposes of enforcing section 140 of this Act may not be exercised in relation to any vessel within subsection (10) unless—
 - (a) in the case of a third country vessel, other than a vessel falling within paragraph (b) or (c) of that subsection, the United Kingdom is entitled under international law to exercise those powers without the consent of the flag state, or
 - (b) the Commissioners have given authority to exercise those powers.
- (10) The vessels are—
 - (a) a third country vessel;
 - (b) a warship that is being used by the government of a State other than the United Kingdom;
 - (c) any other vessel that is being used by such a government for any non-commercial purpose.
- (11) The Commissioners may give authority under subsection (9)(b) only if the flag state has consented to the United Kingdom exercising those powers (whether generally or in relation to the vessel in question).
- (12) In giving such authority, the Commissioners must impose such conditions or limitations on the exercise of the powers as are necessary to give effect to any conditions or limitations imposed by the flag state.
- (13) In this section “UK inshore region” means the area of sea within the seaward limits of the territorial sea adjacent to the United Kingdom.

Interpretation

244 Interpretation of this Chapter

- (1) In this Chapter—
 - “British marine installation” means a marine installation owned by or leased to an individual residing in, or a body corporate incorporated under the law of, any part of the United Kingdom;
 - “British warship” means a ship belonging to Her Majesty and forming part of Her Majesty’s armed forces;
 - “civilian marine enforcement officer” means a person appointed as a marine enforcement officer by the MMO or the Welsh Ministers;
 - “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
 - “fishing boat” means any vessel that is being used for fishing or for any activity relating to fishing;
 - “flag state”, in relation to a vessel, means the State whose flag the vessel is flying or is entitled to fly;
 - “marine installation” means any artificial island, installation or structure (other than a vessel);

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“Northern Ireland fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995 \(c. 21\)](#) and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“petroleum” has the same meaning as in Part 3 of the [Petroleum Act 1998 \(c. 17\)](#) (see section 28(1) of that Act);

“Scottish fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995](#) and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;

“third country vessel” means a vessel which—

- (a) is flying the flag of, or is registered in, any State or territory (other than Gibraltar) which is not a member State, and
- (b) is not registered in a member State.

(2) In this Chapter, except where otherwise provided, any reference to a vessel includes a reference to—

- (a) any ship or boat or any other description of vessel used in navigation, and
- (b) any hovercraft, submersible craft or other floating craft,

but does not include a reference to anything that permanently rests on, or is permanently attached to, the sea bed.

CHAPTER 2

COMMON ENFORCEMENT POWERS

Introductory

245 Common enforcement powers

(1) This Chapter sets out the powers that may be exercised by a person who has the common enforcement powers conferred by this Act.

(2) In this Chapter—

“enforcement officer” means any person who has the common enforcement powers conferred by this Act;

“relevant activity”, in relation to an enforcement officer, means any activity in respect of which the officer has functions;

“relevant function”, in relation to an enforcement officer, means any function of that officer;

“relevant offence”, in relation to an enforcement officer, means any offence in respect of which the officer has functions.

(3) The powers conferred on an enforcement officer by any section in this Chapter are without prejudice to any powers exercisable by the officer apart from that section.

*Entry, search and seizure***246 Power to board and inspect vessels and marine installations**

- (1) For the purposes of carrying out any relevant functions, an enforcement officer may at any time board and inspect a vessel or marine installation.

This is subject to section 249 (which provides that a warrant is necessary to enter a dwelling).

- (2) For the purposes of exercising the power conferred by subsection (1), the officer may require a vessel or marine installation—
- (a) to stop, or
 - (b) to do anything else that will facilitate the boarding of that or any other vessel or marine installation.
- (3) An enforcement officer who has boarded a vessel or marine installation may, for the purposes of disembarking from the vessel or installation, require that or any other vessel or marine installation—
- (a) to stop, or
 - (b) to do anything else that will enable the officer, and any person accompanying the officer, to disembark from the vessel or installation.
- (4) An enforcement officer may require any person on board a vessel or marine installation to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by this section.

247 Power to enter and inspect premises

- (1) For the purposes of carrying out any relevant functions, an enforcement officer may enter and inspect any premises.

This is subject to section 249 (which provides that a warrant is necessary to enter a dwelling).

- (2) The officer may only exercise the power conferred by this section at a reasonable time, unless it appears to the officer that there are grounds for suspecting that the purpose of entering the premises may be frustrated if the officer seeks to enter at a reasonable time.
- (3) An enforcement officer may require any person in or on the premises to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of the power conferred by this section.
- (4) In this section “premises” includes land, but does not include any vehicle, vessel or marine installation.

248 Power to enter and inspect vehicles

- (1) For the purposes of carrying out any relevant functions, an enforcement officer may at any time—
- (a) enter and inspect any vehicle;
 - (b) stop and detain any vehicle for the purposes of entering and inspecting it.

This is subject to section 249 (which provides that a warrant is necessary to enter a dwelling).

- (2) Where—
- (a) an enforcement officer has stopped a vehicle under this section, and
 - (b) the officer considers that it would be impracticable to inspect the vehicle in the place where it has stopped,
- the officer may require the vehicle to be taken to such place as the officer directs to enable the vehicle to be inspected.
- (3) An enforcement officer may require—
- (a) any person travelling in a vehicle, or
 - (b) the registered keeper of a vehicle,
- to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by this section.
- (4) The powers conferred by this section may be exercised in any place (whether or not it is a place to which the public has access).
- (5) In this section “vehicle” does not include any vessel.

249 Dwellings

- (1) An enforcement officer may not by virtue of section 246, 247 or 248 enter any dwelling unless a justice has issued a warrant authorising the officer to enter the dwelling.
- (2) A justice may only issue such a warrant if, on an application by the officer, the justice is satisfied—
- (a) that the officer has reasonable grounds for believing that there is material in the dwelling which for the purposes of carrying out any relevant functions the officer wishes to inspect, examine or seize, and
 - (b) that any of the conditions in subsection (3) is satisfied.
- (3) The conditions are—
- (a) that it is not practicable to communicate with any person entitled to grant entry to the dwelling;
 - (b) that it is not practicable to communicate with any person entitled to grant access to that material;
 - (c) that entry to the dwelling is unlikely to be granted unless a warrant is produced;
 - (d) that the purpose of entry may be frustrated or seriously prejudiced unless an enforcement officer arriving at the dwelling can secure immediate entry to it.
- (4) Schedule 17 contains further provision about warrants issued under this section.
- (5) In this Chapter “justice” means—
- (a) in relation to England and Wales, a justice of the peace;
 - (b) in relation to Northern Ireland, a lay magistrate;
 - (c) in relation to Scotland, a sheriff, stipendiary magistrate or justice of the peace.

Status: This is the original version (as it was originally enacted).

250 Powers of search, examination, etc

- (1) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may—
 - (a) search the relevant premises for any item;
 - (b) examine anything that is in or on the relevant premises.
- (2) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may—
 - (a) search or examine anything which appears to be in the person's possession or control;
 - (b) stop and detain the person for the purposes of such a search or examination.
- (3) An enforcement officer may carry out any measurement or test of anything which the officer has power under this section to examine.
- (4) The power conferred by subsection (3) includes power to take a sample from any live animal or plant.
- (5) For the purpose of exercising any power conferred by this section, an enforcement officer may, so far as is reasonably necessary for that purpose, break open any container or other locked thing.
- (6) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may require any person in or on the relevant premises to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by this section.
- (7) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise in relation to that person of any power conferred by this section.
- (8) Nothing in this section confers any power to search a person.
- (9) The reference in subsection (1) to anything that is in or on the relevant premises includes a reference to—
 - (a) anything that is attached to or otherwise forms part of the relevant premises, and
 - (b) anything that is controlled from the relevant premises.
- (10) In this section—
 - “animal” includes any egg, larva, pupa, or other immature stage of an animal;
 - “item” includes—
 - (a) any document or record (in whatever form it is held);
 - (b) any animal or plant;
 - “sample” means a sample of blood, tissue or other biological material.

251 Power to require production of documents, etc

- (1) This section applies where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248.
- (2) The officer may require any person in or on the relevant premises to produce any document or record that is in the person's possession or control.
- (3) A reference in this section to the production of a document includes a reference to the production of—
 - (a) a hard copy of information recorded otherwise than in hard copy form, or
 - (b) information in a form from which a hard copy can be readily obtained.
- (4) For the purposes of this section—
 - (a) information is recorded in hard copy form if it is recorded in a paper copy or similar form capable of being read (and references to hard copy have a corresponding meaning);
 - (b) information can be read only if—
 - (i) it can be read with the naked eye, or
 - (ii) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

252 Powers of seizure, etc

- (1) An enforcement officer who is exercising a power of inspection conferred by section 246, 247 or 248 may—
 - (a) seize and detain or remove any item found on the relevant premises;
 - (b) take copies of or extracts from any document or record found on the relevant premises.
- (2) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may seize and detain or remove any item which appears to be in the person's possession or control.
- (3) An enforcement officer to whom any document or record has been produced in accordance with a requirement imposed under section 251 may—
 - (a) seize and detain or remove that document or record;
 - (b) take copies of or extracts from that document or record.

In this subsection "document" includes anything falling within paragraph (a) or (b) of section 251(3).
- (4) The powers conferred by this section may only be exercised—
 - (a) for the purposes of determining whether a relevant offence has been committed, or
 - (b) in relation to an item which an enforcement officer reasonably believes to be evidence of the commission of a relevant offence.
- (5) Subject to subsection (6), an enforcement officer who is exercising a power of inspection conferred by section 246, 247 or 248 may not remove from the relevant premises any item which is required by law to be kept on the relevant premises.
- (6) An enforcement officer may remove such an item from a vessel while it is being detained in a port.

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- (7) Nothing in this section confers power on an enforcement officer to seize an item which the officer has reasonable grounds for believing to be—
- (a) an item subject to legal privilege (within the meaning of the [Police and Criminal Evidence Act 1984 \(c. 60\)](#)), or
 - (b) an item in respect of which a claim to confidentiality of communications could be maintained in legal proceedings in Scotland.

253 Further provision about seizure

- (1) Where—
- (a) any items which an enforcement officer wishes to seize and remove are in a container, and
 - (b) the officer reasonably considers that it would facilitate the seizure and removal of the items if they remained in the container for that purpose,
- any power to seize and remove the items conferred by section 252 includes power to seize and remove the container.
- (2) Where—
- (a) any items which an enforcement officer wishes to seize and remove are not in a container, and
 - (b) the officer reasonably considers that it would facilitate the seizure and removal of the items if they were placed in a container suitable for that purpose,
- the officer may require the items to be placed into such a container.
- (3) If, in the opinion of an enforcement officer, it is not for the time being practicable for the officer to seize and remove any item, the officer may require—
- (a) the person from whom the item is being seized, or
 - (b) where the officer is exercising a power of inspection conferred by section 246, 247 or 248, any person in or on the relevant premises,
- to secure that the item is not removed or otherwise interfered with until such time as the officer may seize and remove it.
- (4) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may require any person in or on the relevant premises to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by section 252 or this section.
- (5) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise in relation to that person of any power conferred by section 252 or this section.
- (6) In section 66 of the [Criminal Justice and Police Act 2001 \(c. 16\)](#) (general interpretation of Part 2) in subsection (1)—
- (a) before the definition of “premises” insert—

““marine installation” has the meaning given by section 262 of the Marine and Coastal Access Act 2009;”;
 - (b) in the definition of “premises”, after “offshore installation” insert “or other marine installation”.

- (7) In Part 1 of Schedule 1 to that Act (powers of seizure to which section 50 applies), after paragraph 73K insert—

“Marine and Coastal Access Act 2009 (c. 23)

73L Each of the powers of seizure conferred by section 252(1) and (3) of the Marine and Coastal Access Act 2009.”

254 Retention of seized items

- (1) This section applies to any item seized in the exercise of a power conferred by section 252.
- (2) The item may be retained so long as is necessary in all the circumstances and in particular—
- (a) for use as evidence at a trial for a relevant offence, or
 - (b) for forensic examination or for investigation in connection with a relevant offence.
- (3) No item may be retained for either of the purposes mentioned in subsection (2) if a photograph or a copy would be sufficient for that purpose.

Miscellaneous and ancillary powers

255 Power to record evidence of offences

- (1) An enforcement officer may use any device for the purpose of taking visual images of anything which the officer believes is evidence of the commission of a relevant offence.
- (2) The power conferred by this section is exercisable in relation to—
- (a) anything that is in or on,
 - (b) anything that is attached to or otherwise forms part of, or
 - (c) anything that is controlled from,
- any vessel, marine installation, premises or vehicle.
- (3) The officer may require any person in or on the vessel, marine installation, premises or vehicle to afford such facilities and assistance with respect to matters under that person’s control as the officer considers would facilitate the exercise of the power conferred by this section.

256 Power to require name and address

Where an enforcement officer reasonably believes that a person has committed a relevant offence, the officer may require the person to provide the person’s name and address.

257 Power to require production of licence, etc

- (1) Where an enforcement officer reasonably believes—
- (a) that a person is or has been carrying on a relevant activity, and

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(b) that the person requires a licence or other authority to carry on that activity, the officer may require the person to produce that licence or other authority.

(2) If the person is unable to produce the licence or other authority when required to do so, the person must produce it at such place, and within such period of time, as the officer may specify.

258 Power to require attendance of certain persons

(1) This section applies where an enforcement officer has—

- (a) boarded a vessel or marine installation, or
- (b) entered any premises.

(2) For the purposes of carrying out any relevant functions, the officer may require the attendance of—

- (a) the person who is for the time being in charge of the vessel or marine installation;
- (b) any other person who is on board the vessel or marine installation;
- (c) the owner or occupier of the premises;
- (d) any person who is on the premises.

259 Power to direct vessel or marine installation to port

(1) This section applies where—

- (a) an enforcement officer considers that it would not be reasonably practicable for the officer to exercise a power which the officer wishes to exercise in relation to a vessel or marine installation without detaining the vessel or marine installation in a port, or
- (b) an enforcement officer reasonably believes that—
 - (i) a vessel or marine installation is itself evidence of the commission of a relevant offence, and
 - (ii) the only reasonably practicable way to preserve that evidence is to detain the vessel or marine installation in a port.

(2) The officer may—

- (a) take, or arrange for another person to take, the vessel or marine installation and its crew to the port which appears to the officer to be the nearest convenient port, or
- (b) require the person who is for the time being in charge of the vessel or marine installation to take it and its crew to that port.

(3) When the vessel or marine installation has been taken to a port, the officer may—

- (a) detain it there, or
- (b) require the person for the time being in charge of it to do so.

(4) An enforcement officer who detains any vessel or marine installation under this section must serve a notice on the person who is for the time being in charge of it.

(5) The notice must state that the vessel or marine installation is to be detained until the notice is withdrawn.

(6) A notice served under subsection (4) may be withdrawn by service of a further notice signed by an appropriate enforcement officer.

(7) In subsection (6) the reference to an appropriate enforcement officer is a reference to any enforcement officer acting on behalf of the same relevant authority as the enforcement officer who served the notice under subsection (4), and includes a reference to that officer.

“Relevant authority” means the person or body on whose behalf the officer who detained the vessel or marine installation was acting.

260 Assistance etc

(1) To assist in carrying out any relevant functions, an enforcement officer may bring—

- (a) any other person;
- (b) any equipment or materials.

(2) A person who is brought by an enforcement officer to provide assistance may exercise any powers conferred by this Act which the officer may exercise, but only under the supervision or direction of the officer.

261 Power to use reasonable force

(1) An enforcement officer may use reasonable force, if necessary, in the exercise of any power conferred by this Act.

(2) A person assisting an enforcement officer under section 260 may use reasonable force, if necessary, in the exercise of any power conferred by this Act.

Interpretation

262 Interpretation of this Chapter

(1) In this Chapter—

“common enforcement power” means any power conferred by sections 246 to 261;

“enforcement officer” has the meaning given by section 245;

“item” has the meaning given by section 250(10);

“justice” has the meaning given by section 249(5);

“marine installation” means any artificial island, installation or structure (other than a vessel);

“premises” has the meaning given by section 247(4);

“relevant activity”, “relevant function” and “relevant offence” have the meaning given by section 245;

“the relevant premises”, in relation to an enforcement officer exercising a power of inspection conferred by section 246, 247 or 248, means the vessel, marine installation, premises or vehicle in relation to which the power is being exercised.

(2) In this Chapter any reference to a vessel includes a reference to—

- (a) any ship or boat or any other description of vessel used in navigation,

- (b) any hovercraft, submersible craft or other floating craft, and
- (c) any aircraft,

but does not include a reference to anything that permanently rests on, or is permanently attached to, the sea bed.

CHAPTER 3

LICENSING ENFORCEMENT POWERS

263 Power to require information relating to certain substances and objects

- (1) A person who has the power conferred by this section may require any person—
 - (a) to give details of any substances or objects on board a vehicle, vessel, aircraft or marine structure;
 - (b) to give information concerning any substances or objects lost from a vehicle, vessel, aircraft or marine structure.
- (2) A statement made by a person in response to a requirement made under this section may not be used against the person in criminal proceedings in which the person is charged with an offence to which this subsection applies.
- (3) Subsection (2) applies to any offence other than an offence under one of the following provisions (which concern false statements made otherwise than on oath)—
 - (a) section 5 of the [Perjury Act 1911 \(c. 6\)](#);
 - (b) section 44(2) of the [Criminal Law \(Consolidation\) \(Scotland\) Act 1995 \(c. 39\)](#);
 - (c) Article 10 of the Perjury (Northern Ireland) Order 1979 ([S.I. 1979/1714 \(N.I. 19\)](#)).
- (4) In this section “marine structure” and “vessel” have the meaning given by section 115.

CHAPTER 4

FISHERIES ENFORCEMENT POWERS

Inspection and seizure of objects at sea

264 Power to inspect and seize objects at sea

- (1) For the purposes of carrying out any relevant functions, an enforcement officer who has the power conferred by this section may inspect any object in the sea which the officer believes has been or is being used for or in connection with fishing.

The officer may lift an object out of the sea for the purposes of inspecting it under this section.
- (2) An enforcement officer who has inspected an object under this section may seize the object.
- (3) The power conferred by subsection (2) may only be exercised—

- (a) for the purposes of determining whether a relevant offence has been committed, or
 - (b) in relation to an object which an enforcement officer reasonably believes to be evidence of the commission of a relevant offence.
- (4) If, having inspected an object under this section, the officer decides not to seize it under subsection (2), the officer must, if it is reasonably practicable to do so, replace the object in the location where it was found.
- (5) If it is not reasonably practicable to replace the object in accordance with subsection (4), the officer may seize the object until such time as it may be collected by its owner.
- (6) Any 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 within the object.
- (7) Any 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.
- (8) The powers conferred on an enforcement officer by this section are without prejudice to any powers exercisable by the officer apart from this section.

265 Reports of inspections under section 264

- (1) This section applies where an enforcement officer inspects any object under section 264.
- (2) The officer must prepare a report in relation to the inspection.
- (3) The report must state—
 - (a) the date and time of the inspection;
 - (b) the identity of the officer who carried out the inspection;
 - (c) how the officer may be contacted.
- (4) In the case of an object seized under section 264(2) or (5), the report must also state—
 - (a) what has been seized;
 - (b) the reasons for its seizure;
 - (c) any further action that it is proposed will be taken in relation to the object.
- (5) Where the object has not been seized under section 264(2) or (5), the officer must, if it is reasonably practicable to do so, attach a copy of the report to the object.

If it is not reasonably practicable to attach a copy of the report to the object, the officer must serve a copy of the report on every person who appears to the officer to be the owner, or one of the owners, of the object.
- (6) In a case where the officer, after taking reasonable steps to do so, is unable to identify any person as owning the object, the officer must take such steps as the officer thinks fit to bring the contents of the report to the attention of persons likely to be interested in it.
- (7) Where—
 - (a) the object has been seized under section 264(2), and
 - (b) either of the conditions in subsection (8) is satisfied,

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the relevant authority must, if it has not already done so, serve a copy of the report on every person who appears to the authority to be the owner, or one of the owners, of the object.

(8) The conditions are—

- (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the object was seized;
- (b) that any proceedings taken in respect of such an offence have concluded.

(9) Where the object has been seized under section 264(5), the relevant authority must serve a copy of the report on every person who appears to the authority to be the owner, or one of the owners, of the object at the same time as it serves a notice of collection on that person under section 267.

(10) In a case where the relevant authority, after taking reasonable steps to do so, is unable to identify any person as owning the object—

- (a) any reference in this section to a requirement for the authority to serve a copy of a report on such a person is to be read as a reference to a requirement to take such steps as the authority thinks fit to bring the contents of the report to the attention of persons likely to be interested in it, and
- (b) the reference in subsection (9) to serving a notice of collection under section 267 is to be read as a reference to taking the steps referred to in subsection (5) of that section.

266 Retention of objects seized under section 264(2)

- (1) Any object seized by an enforcement officer under section 264(2) may be retained by the relevant authority.
- (2) If either of the grounds of release in subsection (3) applies, the relevant authority must, as soon as is reasonably practicable, make the object available for collection.
- (3) The grounds of release referred to in subsection (2) are—
 - (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the object was seized;
 - (b) that any proceedings taken in respect of such an offence have concluded without any order for forfeiture having been made.
- (4) But subsection (2) does not apply if the object is liable to forfeiture under section 275 or 276.
- (5) Any reference in this section to an object seized under subsection (2) of section 264 includes a reference to anything seized by virtue of subsection (6) of that section.

267 Disposal of objects seized under section 264

- (1) This section applies to—
 - (a) any object seized under section 264(2) which the relevant authority—
 - (i) no longer wishes to retain for any purpose, or
 - (ii) is required to make available for collection by virtue of section 266;
 - (b) any object seized under section 264(5).
- (2) In this section a “notice of collection” is a notice stating that—

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- (a) the object specified in the notice is available to be collected from the location so specified, and
 - (b) if the object is not collected before the end of the period of three months beginning with the date specified in the notice, the relevant authority will dispose of the object.
- (3) The relevant authority must serve a notice of collection on every person who appears to the authority to be the owner, or one of the owners, of the object.
- (4) The relevant authority may take any other steps it thinks fit to notify every such person that the object is available to be collected.
- (5) If the relevant authority, after taking reasonable steps to do so, is unable to identify any person as owning the object in order to serve a notice of collection, the relevant authority must take such steps as it thinks fit to bring the information contained in the notice of collection to the attention of persons likely to be interested in it.
- (6) If the relevant authority complies with subsection (3) or subsection (5), as the case may be, the relevant authority may, at the end of the period mentioned in subsection (2)(b), dispose of the object in whatever way it thinks fit.
- (7) Any reference in this section to an object seized under subsection (2) or (5) of section 264 includes a reference to anything seized by virtue of subsection (6) of that section.

Seizure for purposes of forfeiture

268 Power to seize fish for purposes of forfeiture

- (1) An enforcement officer who has the power conferred by this section may seize and detain or remove any fish in respect of which the officer reasonably believes a relevant offence has been committed.
- (2) The power conferred by this section may only be exercised for the purposes of securing that, in the event of a conviction for a relevant offence, the court may exercise any relevant power of forfeiture in relation to fish in respect of which the offence was committed.
- (3) Where—
 - (a) any fish which an enforcement officer wishes to seize and remove are in a container, and
 - (b) the officer reasonably considers that it would facilitate the seizure and removal of the fish if they remained in the container for that purpose,any power to seize and remove the fish includes power to seize and remove the container.
- (4) Where—
 - (a) any fish which an enforcement officer wishes to seize and remove are not in a container, and
 - (b) the officer reasonably considers that it would facilitate the seizure and removal of the fish if they were placed in a container suitable for that purpose,the officer may require the fish to be placed into such a container.

Status: This is the original version (as it was originally enacted).

- (5) If, in the opinion of an enforcement officer, it is not for the time being practicable for the officer to seize and remove any fish, the officer may require—
 - (a) the person from whom the fish are being seized, or
 - (b) where the officer is exercising a power of inspection conferred by section 246, 247 or 248, any person in or on the relevant premises,
 to secure that the fish are not removed or otherwise interfered with until such time as the officer may seize and remove them.
- (6) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may require any person in or on the relevant premises to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by this section.
- (7) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise in relation to that person of any power conferred by this section.
- (8) In this section—
 - “relevant activity”, in relation to an enforcement officer, means any activity in respect of which the officer has functions;
 - “relevant power of forfeiture” means any power of a court to order the forfeiture of any fish in respect of which an offence has been committed;
 - “the relevant premises”, in relation to an enforcement officer exercising a power of inspection conferred by section 246, 247 or 248, means the vessel, marine installation, premises or vehicle in relation to which the power is being exercised.

269 Power to seize fishing gear for purposes of forfeiture

- (1) An enforcement officer who has the power conferred by this section may seize and detain or remove any fishing gear which the officer reasonably believes has been used in the commission of a relevant offence.
- (2) The power conferred by this section may only be exercised for the purposes of securing that, in the event of a conviction for a relevant offence, the court may exercise any relevant power of forfeiture in relation to fishing gear used in the commission of the offence.
- (3) If, in the opinion of an enforcement officer, it is not for the time being practicable for the officer to seize and remove any fishing gear, the officer may require—
 - (a) the person from whom the fishing gear is being seized, or
 - (b) where the officer is exercising a power of inspection conferred by section 246, 247 or 248, any person in or on the relevant premises,
 to secure that the fishing gear is not removed or otherwise interfered with until such time as the officer may seize and remove it.
- (4) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may require any person in or on the relevant premises to afford such facilities and assistance with respect to matters under that

person's control as the officer considers would facilitate the exercise of any power conferred by this section.

- (5) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise in relation to that person of any power conferred by this section.

- (6) In this section—

“relevant activity”, in relation to an enforcement officer, means any activity in respect of which the officer has functions;

“relevant power of forfeiture” means any power of a court to order the forfeiture of any fishing gear used in the commission of an offence;

“the relevant premises”, in relation to an enforcement officer exercising a power of inspection conferred by section 246, 247 or 248, means the vessel, marine installation, premises or vehicle in relation to which the power is being exercised.

270 Procedure in relation to seizure under section 268 or 269

- (1) An enforcement officer who seizes any property under section 268 or 269 must, if it is reasonably practicable to do so, serve a notice on each of the following persons—
- (a) every person who appears to the officer to have been the owner, or one of the owners, of the property at the time of its seizure;
 - (b) in the case of property seized from a vessel, the master, owner and charterer (if any) of the vessel at that time;
 - (c) in the case of property seized from premises, every person who appears to the officer to have been an occupier of the premises at that time;
 - (d) in any other case, the person (if any) from whom the property was seized.
- (2) The notice must state—
- (a) what has been seized;
 - (b) the reason for its seizure;
 - (c) the offence which the officer believes has been committed;
 - (d) any further action that it is proposed will be taken;
 - (e) that, unless the property is liable to forfeiture under section 275 or 276, it is to be detained until such time as it is released or its forfeiture is ordered by the court.
- (3) Subsections (4) and (5) apply in a case where the property was seized following an inspection carried out in exercise of the power conferred by section 264.
- (4) The officer must serve a copy of the report referred to in section 265 on every person falling within paragraph (a) of subsection (1) above at the same time as the officer serves a notice on that person under this section.
- (5) In a case where the officer, after taking reasonable steps to do so, is unable to identify any person as owning the property—
- (a) any reference in this section to a requirement to serve a notice on that person is to be read as a reference to a requirement to take such steps as the officer

thinks fit to bring the contents of the notice to the attention of persons likely to be interested in it, and

- (b) the reference in subsection (4) to serving a copy of the report referred to in section 265 is to be read as a reference to taking the steps referred to in subsection (10)(a) of that section.

271 Retention of property seized under section 268 or 269

- (1) Any property seized by an enforcement officer under section 268 or 269 may be retained by the relevant authority.
- (2) If either of the grounds for release in subsection (3) applies, the relevant authority must, as soon as is reasonably practicable, make the property available for collection.
- (3) The grounds for release referred to in subsection (2) are—
 - (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the property was seized;
 - (b) that any proceedings taken in respect of such an offence have concluded without any order for forfeiture having been made.
- (4) But subsection (2) does not apply if the property is liable to forfeiture under section 275 or 276.

272 Bonds for release of seized fish or gear

- (1) This section applies to any property which is being retained by the relevant authority under section 271.
- (2) The relevant authority may enter into an agreement with any person falling within subsection (3) for security for the property to be given to the relevant authority by way of bond in return for the release of the property.
- (3) The persons referred to in subsection (2) are—
 - (a) the owner, or any of the owners, of the property;
 - (b) in the case of property seized from a vessel, the owner or charterer, or any of the owners or charterers, of the vessel.
- (4) Any bond given under this section is to be—
 - (a) for such amount as may be agreed, or
 - (b) in the event of a failure to agree an amount, for such amount as may be determined by the court.

“The court” means a magistrates’ court in England and Wales.
- (5) A person who gives a bond under this section must comply with such conditions as to the giving of the bond as the relevant authority may determine.
- (6) If either of the grounds for release mentioned in subsection (7) applies, then any bond given under this section must be returned as soon as possible.
- (7) The grounds for release referred to in subsection (6) are—
 - (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the property was seized;
 - (b) that any proceedings taken in respect of such an offence have concluded without any order for forfeiture having been made.

- (8) Any power which a court has to order the forfeiture of any fish or any fishing gear may instead be exercised in relation to any bond given under this section as security for that fish or fishing gear.

273 Power of relevant authority to sell seized fish in its possession

- (1) Any fish which are being retained by the relevant authority under section 271 may be sold by the authority.
- (2) Any power which a court has to order the forfeiture of any fish may instead be exercised in relation to the proceeds of any sale of the fish under this section.
- (3) Subject to subsection (6), the proceeds of any sale under this section may be retained by the relevant authority until such time as—
- (a) a court exercises any power it has to order the forfeiture of the proceeds, or
 - (b) either of the grounds for release mentioned in subsection (4) applies.
- (4) The grounds for release referred to in subsection (3) are—
- (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the fish were seized;
 - (b) that any proceedings taken in respect of such an offence have concluded without any order for forfeiture having been made.
- (5) If either of the grounds for release mentioned in subsection (4) applies, the relevant authority must, as soon as is reasonably practicable, release the proceeds of sale to any person who appears to the authority to have been the owner, or one of the owners, of the fish at the time of the seizure of the fish.
- (6) If the proceeds of sale are still in the relevant authority's possession after the end of the period of six months beginning with the date on which the fish were sold, the relevant authority may retain the proceeds and apply them in any manner it thinks fit.

The relevant authority may exercise its power under this subsection to retain and apply the proceeds of sale only if it is not practicable at the time when the power is exercised to dispose of the proceeds by releasing them immediately to the person to whom they are required to be released.

- (7) Subject to subsection (9), any fish sold under this section must be sold at auction.
- (8) Before selling the fish, the relevant authority must give the owner of the fish a reasonable opportunity to make representations as to the manner in which the fish are sold.
- (9) If—
- (a) the owner of the fish requests that the fish be sold—
 - (i) at a particular auction, or
 - (ii) by a method of sale other than auction,
 - and
 - (b) the relevant authority does not consider that it would be unreasonable to comply with that request,
- the relevant authority must comply with the request when selling the fish.

Status: This is the original version (as it was originally enacted).

- (10) The relevant authority may deduct any reasonable expenses it has incurred in selling any fish under this section from the proceeds of the sale.
- (11) In a case where there is more than one owner of the fish, subsection (9) applies only if the request is made by or on behalf of all of them.

274 Disposal of property seized under section 268 or 269

- (1) This section applies to any property seized under section 268 or 269 which the relevant authority—
 - (a) no longer wishes to retain for any purpose, or
 - (b) is required to make available for collection by virtue of section 271.
- (2) In this section a “notice of collection” is a notice stating that—
 - (a) the property specified in the notice is available to be collected from the location so specified, and
 - (b) if the property is not collected before the end of the period of three months beginning with the date specified in the notice, the relevant authority will dispose of the property.
- (3) The relevant authority must serve a notice of collection on every person who appears to the authority to be the owner, or one of the owners, of the property.
- (4) The relevant authority may take any other steps it considers appropriate to notify every such person that the property is available to be collected.
- (5) If the relevant authority, after taking reasonable steps to do so, is unable to identify any person as owning the property, the relevant authority must—
 - (a) if it is reasonably practicable to do so, serve a notice of collection on every person who is an appropriate person for the purposes of this subsection, and
 - (b) take such steps as it thinks fit to bring the information contained in the notice of collection to the attention of persons likely to be interested in it.
- (6) For the purposes of subsection (5), the following persons are “appropriate persons”—
 - (a) in the case of property seized from a vessel, the master, owner and charterer (if any) of the vessel at the time of the seizure of the property;
 - (b) in the case of property seized from premises, every person who appears to the relevant authority to have been an occupier of the premises at that time;
 - (c) in any other case, the person (if any) from whom the property was seized.
- (7) If the relevant authority complies with subsection (3) or subsection (5), as the case may be, the relevant authority may, at the end of the period mentioned in subsection (2)(b), dispose of the property in whatever way it thinks fit.

Forfeiture

275 Forfeiture etc of prohibited items

- (1) Any item to which this section applies is liable to forfeiture under this section if the use of that item for sea fishing would in any circumstances constitute an offence under the law of England and Wales.

- (2) This section applies to any item seized on board a vessel or from the sea by an enforcement officer in the exercise of any power conferred by this Act.
- (3) Any item forfeited under this section is to be forfeited to the relevant authority and may be disposed of by that authority in any manner it thinks fit.

276 Forfeiture etc of fish failing to meet size requirements

- (1) Any fish to which this section applies are liable to forfeiture under this section if, by virtue of the fish failing to meet requirements as to size, an offence under the law of England and Wales has been committed in respect of the fish.
- (2) This section applies to fish seized by an enforcement officer in the exercise of any power conferred by this Act.
- (3) Any fish forfeited under this section are to be forfeited to the relevant authority and may be disposed of by that authority in any manner it thinks fit.

277 Further provision about forfeiture under section 275 or 276

Schedule 18 (which makes provision in relation to the forfeiture of property liable to forfeiture under section 275 or 276) has effect.

278 Forfeiture by court following conviction

- (1) This section applies where a court by or before which a person is convicted of an offence under the fisheries legislation orders the forfeiture of any fish or any fishing gear in respect of that offence.
- (2) The court must order that the property to be forfeited is to be taken into the possession of the person or body by whom proceedings for the offence were brought.
- (3) The property may be disposed of as that person or body thinks fit.
- (4) Any proceeds arising from the disposal of the property may be retained by the person or body.
- (5) The court may order any person convicted of the offence to pay any costs reasonably incurred by any person or body in storing the property that is to be forfeited.
- (6) In this section—
 - “the fisheries legislation” means—
 - (a) any enactments relating to sea fishing (including any enactment relating to fishing for shellfish, salmon or migratory trout);
 - (b) any enforceable EU restrictions and enforceable EU obligations relating to sea fishing;
 - “enforceable EU obligation” means an obligation to which section 2(1) of the [European Communities Act 1972 \(c. 68\)](#) applies;
 - “enforceable EU restriction” means a restriction to which section 2(1) of that Act applies.

Status: This is the original version (as it was originally enacted).

*Detention of vessels in connection with court proceedings***279 Power to detain vessels in connection with court proceedings**

- (1) This section applies where—
 - (a) an enforcement officer has reasonable grounds for suspecting that a relevant offence has been committed by the master, owner or charterer of a vessel, and
 - (b) the officer reasonably believes that—
 - (i) if proceedings are taken against the person for the offence, there is a real risk that the person will not attend court unless the vessel is detained under this section, or
 - (ii) if the person is convicted of the offence and the court by or before which the person is convicted imposes a fine on that person, it is likely that the court will order the vessel to be detained.
- (2) Where this section applies, an enforcement officer who has the power conferred by this section may—
 - (a) take, or arrange for another person to take, the vessel and its crew to the port which appears to the officer to be the nearest convenient port, or
 - (b) require any person who is for the time being in charge of the vessel to take it and its crew to that port.
- (3) When a vessel has been taken to a port in pursuance of this section, the officer may—
 - (a) detain it there, or
 - (b) require the person for the time being in charge of it to do so.
- (4) An enforcement officer who detains any vessel under this section must, if it is reasonably practicable to do so, serve a notice on—
 - (a) the owner of the vessel,
 - (b) the charterer (if any) of the vessel, and
 - (c) the person who is for the time being in charge of the vessel.
- (5) The notice must state—
 - (a) the reasons for detaining the vessel;
 - (b) the circumstances in which the vessel may be released.

280 Release of vessels detained under section 279

- (1) This section applies where a vessel is being detained under section 279.
- (2) The vessel ceases to be detained under that section if one of the following things occurs—
 - (a) the notice of detention is withdrawn;
 - (b) the court orders the release of the vessel under section 281;
 - (c) any proceedings taken against the master, owner or charterer of the vessel have concluded;
 - (d) the court referred to in section 279(1)(b)(ii) exercises any power it has to order the vessel to be detained.
- (3) A notice of detention may be withdrawn by service of a further notice signed by an appropriate enforcement officer.

- (4) In subsection (3) the reference to an appropriate enforcement officer is a reference to any enforcement officer acting on behalf of the same relevant authority as the enforcement officer who served the notice of detention, and includes a reference to that officer.
- (5) If any of the grounds for release mentioned in subsection (6) applies, then any notice of detention must be withdrawn as soon as possible.
- (6) The grounds for release referred to in subsection (5) are—
 - (a) that the relevant authority has decided not to take proceedings against the master, owner or charterer of the vessel;
 - (b) that there are no grounds for believing that any person referred to in paragraph (a) against whom proceedings have been, or may be, taken will fail to attend court;
 - (c) that there are no grounds for believing that the court referred to in section 279(1)(b)(ii) will order the vessel to be detained.
- (7) In this section “notice of detention” means a notice served under section 279(4).

281 Power of court to order release of vessels

- (1) This section applies where a vessel is being detained under section 279.
- (2) If, on an application made to a magistrates’ court in England and Wales by the owner or charterer, or any of the owners or charterers, of the vessel, the court is satisfied that—
 - (a) the continued detention of the vessel under section 279 is not necessary to secure that the master, owner or charterer of the vessel will attend court, or
 - (b) there are no grounds for believing that the court referred to in section 279(1)(b)(ii) will order the vessel to be detained,the court may order that the vessel be released.

282 Bonds for release of vessels

- (1) Where a vessel is being detained under section 279, the relevant authority may enter into an agreement with the owner or charterer, or any of the owners or charterers, of the vessel for security for the vessel to be given to the relevant authority by way of bond in return for the withdrawal of the notice of detention.
- (2) Any bond given under this section is to be—
 - (a) for such amount as may be agreed, or
 - (b) in the event of a failure to agree an amount, for such amount as may be determined by the court.“The court” means a magistrates’ court in England and Wales.
- (3) A person who gives a bond under this section must comply with such conditions as to the giving of the bond as the relevant authority may determine.
- (4) If any of the grounds for release mentioned in subsection (5) applies, then any bond given under this section must be returned as soon as possible.
- (5) The grounds for release referred to in subsection (4) are—
 - (a) that the relevant authority has decided not to take proceedings against the master, owner or charterer of the vessel;

Status: This is the original version (as it was originally enacted).

- (b) that there are no grounds for believing that any person referred to in paragraph (a) against whom proceedings have been, or may be, taken will fail to attend court;
 - (c) that there are no grounds for believing that the court referred to in section 279(1)(b)(ii) would, in the absence of the bond, have ordered the vessel to be detained;
 - (d) that any proceedings taken against the master, owner or charterer of the vessel have concluded without any fine having been imposed.
- (6) Where a court imposes a fine on the master, owner or charterer of the vessel, the court may order any sum of money given as a bond under this section to be used towards the payment of the fine.

If the fine is less than the amount of the bond, any sum not required to be used in payment of the fine must be returned to the person who gave the bond as soon as possible.

- (7) In this section “notice of detention” means a notice served under section 279(4).

283 Power of court to order repayment of bonds

- (1) This section applies where a notice of detention served under section 279(4) in respect of a vessel has been withdrawn in return for a bond given as security for the vessel under section 282.
- (2) If, on an application to a magistrates’ court in England and Wales by the person who gave the bond, the court is satisfied that—
- (a) the continued detention of the bond under section 282 is not necessary to secure that the master, owner or charterer of the vessel will attend court, or
 - (b) there are no grounds for believing that the court referred to in section 279(1)(b)(ii) would, in the absence of the bond, have ordered the vessel to be detained,
- the court may order that the bond be returned to the person who gave it.

Production of equipment

284 Power to require production of certain equipment

- (1) An enforcement officer who has the power conferred by this section may require any person on board a vessel to produce any equipment falling within subsection (2).
- (2) The equipment referred to in subsection (1) is—
- (a) any automatic recording equipment or transmitting equipment used in accordance with a condition included in a licence by virtue of section 4(6) or 4A(6) of the [Sea Fish \(Conservation\) Act 1967 \(c. 84\)](#);
 - (b) any equipment which is required to be carried on board a vessel by virtue of a byelaw made by an inshore fisheries and conservation authority under section 155;
 - (c) any equipment which is required to be carried on board a vessel by virtue of an order made by the Welsh Ministers under section 189.

Supplementary

285 Service of notices, etc

- (1) Any notice or other thing that is required to be served on or given to a person under any provision of this Chapter may be served on or given to the person only by one of the following methods—
 - (a) personal delivery;
 - (b) addressing it to the person and leaving it at the appropriate address;
 - (c) addressing it to the person and sending it to that address by post.
- (2) “The appropriate address”, in relation to the owner of a vessel that is registered in any country or territory, means the address given by that register as the address of the owner of the vessel.
- (3) In relation to any other person “the appropriate address” means—
 - (a) in the case of a body corporate, its registered or principal office in the United Kingdom;
 - (b) in the case of a firm, the principal office of the partnership;
 - (c) in the case of an unincorporated body or association, the principal office of the body or association;
 - (d) in any other case, the person’s usual or last known place of residence in the United Kingdom or last known place of business in the United Kingdom.
- (4) In the case of—
 - (a) a company registered outside the United Kingdom,
 - (b) a firm carrying on business outside the United Kingdom, or
 - (c) an unincorporated body or association with offices outside the United Kingdom,the references in subsection (3) to its principal office include references to its principal office within the United Kingdom (if any).

286 Conclusion of proceedings

- (1) This section applies for determining when any proceedings have concluded for the purposes of this Chapter.
- (2) Where proceedings are terminated by an appealable decision, they are not to be regarded as concluded—
 - (a) until the end of the ordinary time for appeal against the decision, if no appeal in respect of the decision is brought within that time, or
 - (b) if an appeal in respect of the decision is brought within that time, until the conclusion of the appeal.
- (3) Subsection (2) applies for determining, for the purposes of paragraph (b) of that subsection, when proceedings on an appeal are concluded as it applies for determining when the original proceedings are concluded.
- (4) Any reference in subsection (2) to a decision which terminates proceedings includes a reference to a verdict, sentence, finding or order that puts an end to the proceedings.
- (5) An appealable decision is a decision of a description against which an appeal will lie, whether by way of case stated or otherwise and whether with or without permission.

- (6) Any reference in this section to an appeal includes a reference to an application for permission to appeal.

287 Interpretation of this Chapter

In this Chapter—

“fish” includes shellfish;

“relevant authority” means—

- (a) in relation to the seizure of any object or property by an enforcement officer, the person or body on whose behalf the officer who seized it was acting;
- (b) in relation to the detention of a vessel by an enforcement officer, the person or body on whose behalf the officer who detained the vessel was acting;

“relevant function”, in relation to an enforcement officer, means any function of that officer;

“relevant offence”, in relation to an enforcement officer, means any offence in respect of which the officer has functions;

“shellfish” includes crustaceans and molluscs of any kind;

“vessel” includes any ship or boat or any description of vessel used in navigation.

CHAPTER 5

COMMON ENFORCEMENT PROVISIONS

Introductory

288 Meaning of “enforcement officer”

In this Chapter “enforcement officer” means a person who has any powers conferred by this Part, other than a person who has such powers only by virtue of section 260(2) (persons assisting enforcement officers).

Duties of enforcement officers

289 Duty to provide evidence of authority

- (1) Before exercising any power conferred by this Part, an enforcement officer must, if requested to do so, produce evidence that the officer is authorised to exercise that power.
- (2) An enforcement officer may exercise a power conferred by this Part only if the officer complies with the duty imposed by subsection (1).
- (3) If, at the time the request is made, the officer does not consider it practicable to produce the evidence referred to in subsection (1), that subsection does not apply until such time as the officer considers it practicable to comply with the request.

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- (4) Nothing in this section applies to a person falling within paragraph (c) or (d) of section 235(1).

290 Duty to state name and purpose, etc

- (1) Before exercising any power conferred by this Part, an enforcement officer must, if requested to do so, give the information in subsection (3).
- (2) Before exercising any power conferred by this Part, any person assisting an enforcement officer by virtue of section 260 must, if requested to do so, give the information in paragraphs (b) and (c) of subsection (3).
- (3) The information is—
- (a) the person's name;
 - (b) the power the person is proposing to exercise;
 - (c) the grounds for proposing to do so.
- (4) A person may exercise a power conferred by this Part only if the person complies with the duty imposed by subsection (1) or the duty imposed by subsection (2) (as the case may be).
- (5) If, at the time the request is made, the person does not consider it practicable to give the information referred to in subsection (1) or the information referred to in subsection (2) (as the case may be), that subsection does not apply until such time as the person considers it practicable to comply with the request.

Liability of enforcement officers

291 Liability of enforcement officers etc

- (1) A person within subsection (2) is not to be liable in any civil or criminal proceedings for anything done (or omitted to be done) in, or in connection with, the discharge or purported discharge of the person's functions under this Act.
- (2) The persons are—
- (a) any enforcement officer;
 - (b) any person assisting an enforcement officer by virtue of section 260.
- (3) Subsection (1) does not apply—
- (a) if the act or omission is shown to have been in bad faith,
 - (b) if there were no reasonable grounds for the act or omission, or
 - (c) so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the [Human Rights Act 1998 \(c. 42\)](#) (acts of public authorities incompatible with Convention rights).

Offences in relation to enforcement officers

292 Offences in relation to enforcement officers

- (1) A person is guilty of an offence if—

Status: This is the original version (as it was originally enacted).

- (a) the person fails without reasonable excuse to comply with a requirement reasonably made, or a direction reasonably given, by an enforcement officer in the exercise of any power conferred by this Part, or
 - (b) the person prevents any other person from complying with any such requirement or direction.
- (2) A person is not guilty of an offence by reason of a failure to comply with a requirement made under subsection (1) of section 257 if the person complies with subsection (2) of that section.
- (3) A person who provides information in pursuance of a requirement reasonably made by an enforcement officer in the exercise of the power conferred by section 263 is guilty of an offence if—
 - (a) the information is false in a material particular, and the person knows that it is or is reckless as to whether it is, or
 - (b) the person intentionally fails to disclose any material particular.
- (4) A person who intentionally obstructs an enforcement officer in the performance of any of the officer's functions under this Act is guilty of an offence.
- (5) A person who assaults an enforcement officer in the performance of any of the officer's functions under this Act is guilty of an offence.
- (6) A person who, with intent to deceive, falsely pretends to be an enforcement officer is guilty of an offence.
- (7) A person who is guilty of an offence under subsection (1), (3) or (6) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to a fine.
- (8) A person who is guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding £20,000.
- (9) A person who is guilty of an offence under subsection (5) is liable on summary conviction to a fine not exceeding £50,000.
- (10) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.
- (11) In this section any reference to an enforcement officer includes a reference to a person assisting an enforcement officer by virtue of section 260.

CHAPTER 6

MISCELLANEOUS AND SUPPLEMENTARY

Enforcement of Community rules

293 Enforcement of Community rules

- (1) Section 30 of the [Fisheries Act 1981 \(c. 29\)](#) (enforcement of Community rules) is amended as follows.

(2) In subsection (1)—

- (a) after “enforceable Community restrictions” insert “, and enforceable Community obligations,”;
- (b) for paragraph (a) substitute—
 - “(a) if any fishing boat within British fishery limits—
 - (i) fishes in contravention of any such restriction, or
 - (ii) fails to comply with any such obligation,the master, the owner and the charterer (if any) are each guilty of an offence;”;
- (c) after paragraph (a) insert—
 - “(aa) if any English or Welsh fishing boat outside British fishery limits—
 - (i) fishes in contravention of any such restriction, or
 - (ii) fails to comply with any such obligation,the master, the owner and the charterer (if any) are each guilty of an offence;
 - (ab) if any person in England or Wales—
 - (i) fishes in contravention of any such restriction, or
 - (ii) fails to comply with any such obligation,that person is guilty of an offence;”;
- (d) in paragraph (b), for “such offences” substitute “offences under paragraph (a), (aa) or (ab) of this subsection”;
- (e) in paragraph (c), after “restrictions” insert “and obligations”.

(3) After subsection (2) insert—

- “(2ZA) The provision that may be made by an order made under subsection (2) by the Secretary of State includes—
- (a) provision applying to English or Welsh fishing boats outside British fishery limits;
 - (b) provision applying to persons of a specified description on board any fishing boat, other than a Scottish or Northern Ireland fishing boat, outside British fishery limits.

In this subsection “specified” means specified in the order.”

(4) After subsection (2A) insert—

- “(2B) Her Majesty may by Order in Council provide for subsection (1) or (2) above to apply, with or without modifications, to any fishing boat within subsection (2C) below that is outside British fishery limits as it applies to any English or Welsh fishing boat outside those limits.

(2C) A fishing boat is within this subsection if—

- (a) it is registered under the law of the Isle of Man or any of the Channel Islands; or
- (b) it is wholly owned by persons qualified for the purposes of the law relating to the registration of vessels in the Isle of Man or any of the Channel Islands to own fishing vessels which are entitled to be registered as such under that law.”

(5) In subsection (3), insert at the appropriate places the following definitions—

““English fishing boat” means—

- (a) a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging; or
- (b) a fishing boat which is wholly owned by persons qualified to own British ships for the purposes of that Part, other than—
 - (i) a Welsh, Scottish or Northern Ireland fishing boat,
 - (ii) a fishing boat within subsection (2C) above, or
 - (iii) a fishing boat registered in any country or territory other than the United Kingdom, the Isle of Man or any of the Channel Islands;”;

““Northern Ireland fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;”;

““Scottish fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of that Act and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;”;

““Welsh fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of that Act and whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.”

Administrative penalty schemes

294 Administrative penalty schemes

- (1) The appropriate national authority for any area may by order make provision to confer on any enforcement authority for that area the power to issue penalty notices for offences within subsection (2).
- (2) The offences referred to in subsection (1) are offences relating to sea fishing, other than—
 - (a) an offence under section 30 of the [Fisheries Act 1981 \(c. 29\)](#) or any order made under that section;
 - (b) an offence under regulations made under section 2(2) of the [European Communities Act 1972 \(c. 68\)](#).
- (3) A penalty notice is a notice offering the opportunity, by payment of a specified sum of money, to discharge any liability to be convicted of the offence to which the notice relates.
- (4) The provision that may be made by an order under subsection (1) includes—
 - (a) provision prescribing the offences in relation to which penalty notices may be issued;
 - (b) provision as to circumstances in which penalty notices may be issued;
 - (c) provision as to the content and form of penalty notices;

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- (d) provision as to how the amount of any penalty that may be specified in a penalty notice is to be determined;
 - (e) provision for the issuing of guidance by the appropriate national authority as to matters to be taken into account when making such a determination;
 - (f) provision prescribing the minimum or maximum amount of any penalty;
 - (g) provision about the payment of penalties, including provision as to the period within which any penalty must be paid;
 - (h) provision for and in connection with the withdrawal of penalty notices;
 - (i) provision as to circumstances in which proceedings for an offence may be commenced after the payment of a penalty in relation to that offence.
- (5) An order under subsection (1) may apply in relation to—
- (a) England;
 - (b) Wales;
 - (c) any vessels in waters within British fishery limits, other than—
 - (i) the Scottish zone,
 - (ii) the Northern Ireland zone, and
 - (iii) the territorial sea adjacent to the Isle of Man, Jersey and Guernsey;
 - (d) any English or Welsh fishing boats, wherever they may be.
- (6) Her Majesty may by Order in Council provide for this section to apply, with or without modifications, to any fishing boat within subsection (7) that is outside British fishery limits as it applies to any English or Welsh fishing boat outside those limits.
- (7) A fishing boat is within this subsection if—
- (a) it is registered under the law of the Isle of Man or any of the Channel Islands, or
 - (b) it is wholly owned by persons qualified for the purposes of the law relating to the registration of vessels in the Isle of Man or any of the Channel Islands to own fishing vessels which are entitled to be registered as such under that law.
- (8) In this section—
- “appropriate national authority” means—
 - (a) in relation to Wales or vessels within the Welsh zone, the Welsh Ministers;
 - (b) in relation to England or vessels outside the Welsh zone, the Secretary of State;
 - “enforcement authority” means, in relation to any area, any authority which has a function (whether or not statutory) of taking any action with a view to or in connection with the imposition of any sanction, criminal or otherwise, in a case where an offence within subsection (2) is committed in that area;
 - “England” includes the English inshore region;
 - “English fishing boat” means—
 - (a) a fishing boat which is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995 \(c. 21\)](#) and whose entry in the register specifies a port in England as the port to which the boat is to be treated as belonging, or
 - (b) a fishing boat which is wholly owned by persons qualified to own British ships for the purposes of that Part, other than—
 - (i) a Welsh, Scottish or Northern Ireland fishing boat,

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(ii) a fishing boat within subsection (7) above, or

(iii) a fishing boat registered in any country or territory other than the United Kingdom, the Isle of Man or any of the Channel Islands;

“fishing boat” means any vessel that is being used for fishing or for any activity relating to fishing;

“Northern Ireland fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995 \(c. 21\)](#) and whose entry in the register specifies a port in Northern Ireland as the port to which the boat is to be treated as belonging;

“Scottish fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995](#) and whose entry in the register specifies a port in Scotland as the port to which the boat is to be treated as belonging;

“sea fishing” includes fishing for or taking shellfish;

“shellfish” includes crustaceans and molluscs of any kind;

“vessel” includes any ship or boat or any description of vessel used in navigation;

“Wales” includes the Welsh inshore region;

“Welsh fishing boat” means a fishing boat which is registered in the United Kingdom under Part 2 of the [Merchant Shipping Act 1995](#) and whose entry in the register specifies a port in Wales as the port to which the boat is to be treated as belonging.

Crown application

295 Application to the Crown

(1) The provisions of Chapters 1 to 5 of this Part are binding on the Crown.

This is subject to subsection (2).

(2) No contravention by the Crown of any provision of Chapter 5 is to make the Crown criminally liable; but the High Court or, in Scotland, the Court of Session may declare unlawful any act or omission of the Crown which constitutes such a contravention.

(3) Despite subsection (2), the provisions of Chapters 1 to 5 of this Part apply to persons in the public service of the Crown as they apply to other persons.