
STATUTORY INSTRUMENTS

2007 No. 1842

**The Offshore Marine Conservation
(Natural Habitats, &c.) Regulations 2007**

PART 6

**ENFORCEMENT AND SUPPLEMENTARY
PROVISION RELATING TO CRIMINAL OFFENCES**

Enforcement

Wildlife officers

52.—(1) The Secretary of State may authorise any person to be a wildlife officer.

(2) A competent authority may authorise any person to be a wildlife officer, subject to and in accordance with the agreement of the Secretary of State.

(3) An authorisation under paragraph (1) or (2) must be in writing and may be subject to any conditions or limitations specified in it.

(4) Payments may be made by way of remuneration, allowances, expenses or otherwise—

(a) by the Secretary of State to any person authorised under paragraph (1);

(b) by a competent authority to any person authorised by it under paragraph (2).

(5) An agreement under paragraph (2) may be subject to conditions or limitations and may make provision for payment by the Secretary of State to reimburse the competent authority for the expenses it incurs in connection with and for the purposes of the agreement.

Powers of boarding, entry and inspection

53.—(1) For the purposes of ascertaining whether an offence under these Regulations is being or has been committed on or from a ship to which this paragraph applies or on or from an offshore marine installation, a wildlife officer may at any time, and (if required to do so) upon producing evidence that he is a wildlife officer, board and inspect the ship or offshore marine installation in question.

(2) Paragraph (1) applies to any ship, wherever it may be—

(i) which is registered in the United Kingdom under Part 2 of the Merchant Shipping Act 1995⁽¹⁾;

(ii) which, as a Government ship, is registered in the United Kingdom in pursuance of an Order in Council under section 308 of that Act;

(iii) which is within section 1(1)(d) of that Act and is not a third country ship; or

(iv) which is registered under the law of Gibraltar;

(1) 1995 c.21. Section 15 has been amended by S.I. 2002/794.

- (b) any other ship within British fishery limits; or
- (c) any offshore marine installation.

(3) A wildlife officer may at all reasonable hours, and (if required to do so) upon producing evidence that he is a wildlife officer, enter and inspect any premises, other than any premises referred to in paragraph (2), in the United Kingdom for the purpose of ascertaining whether an offence under these Regulations has been committed.

(4) In relation to premises which are a dwelling, the power conferred by paragraph (3) may only be exercised on the grant of a warrant by a justice.

(5) A justice may only issue a warrant under paragraph (4) if, on an application made by a wildlife officer, he is satisfied—

- (a) that the officer has reasonable grounds for believing that there is material in the dwelling which is likely to be of substantial value (whether in itself or together with other material) to the investigation of an offence under these Regulations; and
- (b) that—
 - (i) it is not practicable to communicate with any person entitled to grant entry to the dwelling;
 - (ii) a person entitled to grant entry to the dwelling has unreasonably refused a wildlife officer entry;
 - (iii) entry to the dwelling is unlikely to be granted unless a warrant is produced; or
 - (iv) the purpose of entry may be frustrated or seriously prejudiced unless a wildlife officer arriving at the dwelling can secure immediate entry to it.

(6) Sections 15 and 16 of the Police and Criminal Evidence Act 1984⁽²⁾ (which respectively relate to safeguards in respect of warrants and the execution of warrants) and articles 17 and 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽³⁾ (which make provisions corresponding to those sections) have effect (in relation to England and Wales and in relation to Northern Ireland respectively) in relation to warrants issued to wildlife officers under this regulation as they have effect in relation to warrants issued to constables.

(7) In this regulation “a justice” means—

- (a) in relation to England and Wales and Northern Ireland, a justice of the peace; and
- (b) in relation to Scotland, a sheriff, stipendiary magistrate or justice of the peace.

(8) In this regulation “the United Kingdom” means the United Kingdom (including its internal waters) and the territorial sea adjacent to the United Kingdom.

Additional powers

54. Regulations 55 to 57 apply where a wildlife officer has boarded any ship or offshore marine installation or entered any premises by virtue of regulation 53.

Powers to make inquiries and examine things

55.—(1) A wildlife officer may, for the purposes of ascertaining whether an offence has been or is being committed under these Regulations—

- (a) make any inquiry of any person on board the ship or offshore marine installation or at the premises; or

(2) 1984 c.60. Section 15 was amended by sections 113, 114 and 174 of, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c.15), and by S.I. 2005/3496. Section 16 was amended by section 2 of the Criminal Justice Act 2003 (c.44) and sections 113 and 114 of the Serious Organised Crime and Police Act 2005, and by S.I. 2005/3496.

(3) S.I. 1989/1341 (N.I. 12).

(b) examine anything there.

(2) A wildlife officer may require any person on board the ship or offshore marine installation, or an occupier of the premises, to do anything which appears to him to be necessary for facilitating his examination of anything.

Powers relating to specimens

56.—(1) A wildlife officer may, for the purpose of ascertaining whether an offence has been or is being committed under these Regulations, require any person on board the ship or offshore marine installation, or at the premises, who has a specimen in his possession or control to make it available for inspection by him.

(2) A wildlife officer may, subject to paragraph (3), take a sample from any specimen he finds on the ship or offshore marine installation or at the premises or which is made available to him under paragraph (1).

(3) No sample may be taken under paragraph (2) from a live bird, other animal or plant except for the purpose of establishing its identity or ancestry.

(4) A wildlife officer may take and remove from the ship, offshore marine installation or premises any specimen which is not a live bird, other animal or plant, if there are reasonable grounds for believing it is evidence of an offence under these Regulations.

(5) In this regulation—

“sample” means a sample of blood, tissue or other biological material; and

“specimen” means—

(a) any bird, other animal or plant; or

(b) any part of, or anything derived from, a bird, other animal or plant.

Powers relating to documents and recording evidence of offences

57.—(1) A wildlife officer may, for the purposes of ascertaining whether an offence has been or is being committed under these Regulations, require any person on board the ship or offshore marine installation, or at the premises, to produce any document which is in his possession or control, and may take copies of any such document.

(2) A wildlife officer may take and remove any document from the ship, offshore marine installation or premises, if there are reasonable grounds for believing it is evidence of an offence under these Regulations.

(3) Nothing in paragraph (2) permits any document to be taken or removed from a ship, offshore marine installation or premises which is required by law to be carried on the ship or offshore marine installation or to be kept at the premises.

(4) A wildlife officer may use any device for the purpose of taking visual images or sound recordings of anything which he believes is evidence of an offence under these Regulations.

Further powers in relation to ships

58.—(1) In order to ascertain whether an offence is being or has been committed under these Regulations by a person on board a ship, a wildlife officer may require the ship to stop and do anything which will facilitate the boarding of the ship.

(2) Where a wildlife officer has reasonable grounds for believing that an offence is being or has been committed under these Regulations by a person on board a ship, he may—

(a) require the master, or other person for the time being in charge of the ship, to take it and its crew to the port which appears to the officer to be the nearest convenient port; and

- (b) detain the ship in port, or require the master, or other person for the time being in charge of the ship, to do so.

(3) If a wildlife officer detains any ship, he must serve on the person in charge notice in writing stating that it is to be detained until the notice is withdrawn by service of a further notice in writing signed by a wildlife officer.

Assistance for wildlife officers

59.—(1) A wildlife officer may take with him, to assist him in performing his functions—

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

(2) A person assisting a wildlife officer may perform any of that officer's functions but only under his supervision.

Power to use reasonable force

60. A wildlife officer, or a person assisting him by virtue of regulation 59, may use reasonable force, if necessary, in the performance of his functions.

Liability of wildlife officers

61. A wildlife officer, or a person assisting him by virtue of regulation 59, is not to be personally liable in any civil or criminal proceedings for anything done in the purported exercise of his functions under these Regulations if the court is satisfied that the act was done in good faith and there were reasonable grounds for doing it.

Offences in relation to wildlife officers

62.—(1) A person is guilty of an offence if he—

- (a) intentionally obstructs a wildlife officer, or a person assisting him by virtue of regulation 59, in the exercise of his functions conferred under these Regulations;
- (b) assaults a wildlife officer, or a person assisting him by virtue of regulation 59, in the exercise of his functions conferred under these Regulations;
- (c) fails without reasonable excuse to comply with a requirement under regulation 55(2), 56(1), 57(1) or 58 reasonably made by a wildlife officer or by a person assisting him by virtue of regulation 59;
- (d) prevents any other person from complying with any such requirement; or
- (e) in purporting to give information requested by a wildlife officer, or by a person assisting him by virtue of regulation 59, makes a statement which he knows to be false in a material particular.

(2) A person guilty of an offence under this regulation is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

Supplementary provision relating to criminal offences

Jurisdiction of courts

63. Proceedings for prosecuting an offence under these Regulations may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.

Possession of means of committing offence

64.—(1) Subject to paragraph (2), a person who, for the purpose of committing an offence under Part 3, has in his possession anything capable of being used for committing the offence is guilty of an offence and punishable in like manner as for that offence.

(2) An offence under paragraph (1) may only be committed by a person—

- (a) in the United Kingdom; or
- (b) at a place where, or on a ship or aircraft on which and in a place where, the offence under Part 3 could have been committed.

(3) In this regulation “the United Kingdom” means the United Kingdom (including its internal waters) and the territorial sea adjacent to the United Kingdom.

Offences by bodies corporate, &c.

65.—(1) If an offence under these Regulations committed by a body corporate is shown—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) If an offence under these Regulations committed by a Scottish partnership is shown—

- (a) to have been committed with the consent or connivance of a partner, or
- (b) to be attributable to any neglect of his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(4) In this regulation—

- (a) “officer”, in relation to a body corporate, means a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity; and
- (b) “partner” includes a person purporting to act as a partner.

Territorial Waters Jurisdiction Act 1878

66. Section 3 of the Territorial Waters Jurisdiction Act 1878(4) (consents to prosecutions of offences committed on the open sea by persons who are not British citizens) does not apply to any proceedings for an offence under these Regulations.

(4) 1878 c.73.

