



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 7

COMMON ENFORCEMENT POWERS ETC.: LICENSING AND MARINE PROTECTION ETC.

#### *Powers of marine enforcement officers*

#### **131 Enforcement of marine licensing regime**

- (1) For the purposes of enforcing Part 4 a marine enforcement officer has—
  - (a) the common enforcement powers conferred by this Act,
  - (b) the power conferred by section 150 (to require information relating to certain substances and objects).
- (2) Subject to subsection (3), the powers which a marine enforcement officer has for the purposes of enforcing Part 4 may be exercised in the Scottish marine area and in any other part of Scotland.
- (3) Those powers may not be exercised in relation to any British warship.
- (4) In this section and section 132, “British warship” means a ship belonging to Her Majesty and forming part of Her Majesty’s armed forces.

#### **132 Enforcement of marine protection and nature conservation legislation**

- (1) For the purposes of enforcing the marine protection and nature conservation legislation, a marine enforcement officer has the common enforcement powers conferred by this Act.
- (2) In this section, “the marine protection and nature conservation legislation” means—
  - (a) marine conservation orders,
  - (b) sections 95, 96, 107, 112(5) and 117,
  - (c) sections 1, 5 to 7, 9, 11, 13, 14 and 14A of the Wildlife and the Countryside Act 1981 (c.69),
  - (d) regulations 39, 41 and 43 of the Conservation (Natural Habitats, &c.) Regulations,

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*Status: This is the original version (as it was originally enacted).*

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- (e) any byelaws made by virtue of regulation 36 of those Regulations.
- (3) Subject to subsections (4) and (5), the powers which a marine enforcement officer has for the purposes of enforcing the marine protection and nature conservation legislation may be exercised in the Scottish marine area and in any other part of Scotland.
- (4) The powers which a marine enforcement officer has for the purposes of enforcing the marine protection and nature conservation legislation may not be exercised in relation to a British warship.
- (5) Any of those powers may also not be exercised in relation to any vessel mentioned in subsection (6) unless, 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.
- (6) 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.
- (7) In this section—
  - “flag state”, in relation to a vessel, is the State whose flag the vessel is flying or is entitled to fly,
  - “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,
  - “vessel” does not include aircraft.