



Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

PART 3

SEA FISHERIES

Inshore sea fishing

50 Powers of entry

- (1) The Inshore Fishing (Scotland) Act 1984 is amended in accordance with this section.
- (2) After section 6 insert—

“6A Power to enter land

- (1) The powers conferred by this section are exercisable by British sea-fisheries officers in relation to any land for the purposes of enforcing the provisions of any order under section 1 of this Act and the provisions of section 3 of this Act.
- (2) Any such officer may at any time enter any land (including the foreshore) other than a dwelling house, on foot or in a vehicle, with or without persons assigned to the officer in the officer’s duties, and for that purpose may—
 - (a) open lockfast places;
 - (b) remove any objects preventing the officer from gaining access to the land;
 - (c) require any person who has placed an object in such a position as to prevent the officer from gaining access to the land to remove the object;
 - (d) require the owner or occupier of the land to allow the officer access to the land.
- (3) Any officer who proposes to exercise the power of entry conferred by subsection (2) above must, if so requested, produce evidence of the officer’s identity.

- (4) A person commits an offence if the person—
 - (a) wilfully obstructs a British sea-fishery officer exercising a right of entry under subsection (2) above;
 - (b) refuses or fails to comply with a requirement imposed by such an officer under paragraph (c) or (d) of that subsection.
 - (5) It is a defence for a person charged with an offence under subsection (4)(b) above of failing to comply with a requirement mentioned in that subsection to show that the person had a reasonable excuse for failing to so comply.
 - (6) A constable may arrest without warrant any person who the constable reasonably believes is committing or has committed an offence under subsection (4) above.
 - (7) Subsection (6) above is without prejudice to any power of arrest conferred by law apart from that subsection.
 - (8) A person who commits an offence under subsection (4) above is liable—
 - (a) on summary conviction to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment to a fine.
 - (9) A British sea-fishery officer is not liable in any civil or criminal proceedings for anything done in purported exercise of the powers conferred on the officer by this section, if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.”.
- (3) After section 10 insert—

“10A Crown application: Scotland

- (1) Section 6A binds the Crown and applies in relation to Crown land as it applies in relation to other land.
- (2) Nothing in that section is to be taken as in any way affecting Her Majesty in Her private capacity.
- (3) No contravention by the Crown of that section makes the Crown criminally liable.
- (4) But the Court of Session may, on the application of the Lord Advocate, declare unlawful any act or omission of the Crown which constitutes such a contravention.
- (5) For the purposes of subsection (1), “Crown land” means land an interest in which—
 - (a) belongs to Her Majesty in right of the Crown;
 - (b) belongs to an office-holder in the Scottish Administration or a government department or is held in trust for Her Majesty for the purposes of the Scottish Administration or a government department.
- (6) In subsection (5), “an office-holder in the Scottish Administration” is to be construed in accordance with section 126(7)(a) of the Scotland Act 1998.”.