



## 2013 CHAPTER 10

### Part 3

#### Marine protection

##### *Enforcement powers*

#### **Enforcement officers**

**38.—(1)** The Department may appoint persons for the purposes of enforcing—

- (a) Articles 4, 6, 7, 10, 12, 13, 14, 15 and 15A of the Wildlife (Northern Ireland) Order 1985;
- (b) regulations 34, 36 and 38 of the Conservation (Natural Habitats, etc.) Regulations (Northern Ireland) 1995;
- (c) any byelaws made by virtue of regulations 23 or 31 of those Regulations;
- (d) Article 46 of the Environment (Northern Ireland) Order 2002;
- (e) any byelaws made under section 26 or 29 of this Act; and
- (f) section 33 of this Act.

(2) For the purposes of enforcing those provisions, a person appointed under this section has the common enforcement powers (see section 39).

(3) Subject as follows, those powers may be exercised in the Northern Ireland inshore region and in any other part of Northern Ireland.

(4) Those powers may not be exercised in relation to any ship belonging to Her Majesty and forming part of the armed forces.

(5) Those powers may not be exercised in relation to any vessel within 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, means the State whose flag the vessel is flying or is entitled to fly;

“third country vessel” means a vessel which—

- (a) is flying a 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.

(8) Sections 289 to 292 of the 2009 Act (which provide for the identification, liability and protection of enforcement officers under that Act) apply to a person appointed under this section as they apply to such enforcement officers, but with the substitution—

- (a) for references to any power conferred by Part 8 of the 2009 Act of references to any of the common enforcement powers conferred by subsection (2);
- (b) for references to functions under that Act of references to functions under this Part; and
- (c) for the reference in section 292(10) to the United Kingdom of a reference to Northern Ireland.

### **The common enforcement powers**

**39.—**(1) For the purposes of this Part, the common enforcement powers are the powers set out in Chapter 2 of Part 8 of the 2009 Act.

(2) Accordingly, that Chapter applies (with any appropriate modifications) where those powers are conferred by section 38(2) as it applies where those powers are conferred by the 2009 Act.