



# Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

## PART 3

### CRIMINAL JUSTICE

#### *Enforcement of Sea Fisheries (Shellfish) Act 1967*

#### **98 Enforcement of Sea Fisheries (Shellfish) Act 1967**

(1) After section 4 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) there is inserted—

**“4A Powers of sea-fishery officers in relation to fishing boats to enforce regulated fishery**

- (1) For the purpose of enforcing restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British sea-fishery officer may exercise the powers conferred by subsections (2) to (7) in relation to—
  - (a) a Scottish fishing boat wherever it may be;
  - (b) any other fishing boat in the Scottish zone.
- (2) The officer may go on board the boat, with or without persons assigned to assist in the duties of that officer, and may, for that purpose or for the purpose of disembarking from the boat, require the boat to stop, and anything else to be done which will facilitate the boarding of, or as the case may be, disembarking from, the boat.
- (3) The officer may require the attendance of the master and any other person on board the boat and may make any examination and inquiry which appears to the officer to be necessary for the purpose of enforcing such restrictions or regulations.
- (4) In particular under subsection (3) the officer may—
  - (a) search the boat for shellfish or fishing gear;

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- (b) examine any shellfish on the boat and the equipment (including the fishing gear) of the boat, and require persons on board the boat to do any thing which appears to the officer to be necessary for facilitating the examination;
  - (c) require any person on the boat to produce any relevant document in the person's custody or possession;
  - (d) for the purpose of ascertaining whether an offence under section 3(3) has been committed, search the boat for any relevant document and may require any person on board the boat to do anything which appears to the officer to be necessary for facilitating the search;
  - (e) inspect, take copies of and retain possession of, while any search, examination or inspection provided for under this subsection is being carried out, any relevant document produced to the officer or found on board;
  - (f) require the master or any person for the time being in charge of the boat to render any relevant document on a computer system into visible and legible form and to produce it in a form in which it may be taken away; and
  - (g) where the boat is one in relation to which the officer has reason to suspect that an offence under section 3(3) has been committed, seize and detain any relevant document produced to the officer or found on board, for the purpose of enabling the document to be used as evidence in proceedings for the offence.
- (5) But subsection (4)(g) does not permit any document required by law to be carried on a boat to be seized and detained except while the boat is detained in a port.
- (6) In subsection (4), “relevant document” means a document relating to—
- (a) the boat; or
  - (b) the catching, landing, transportation, transhipment, sale or disposal of shellfish.
- (7) Where it appears to a British sea-fishery officer that an offence under section 3(3) has at any time been committed the officer—
- (a) may take, or require the master of any boat in relation to which the offence took place to take, the boat and its crew to the port which appears to the officer to be the nearest convenient port; and
  - (b) may detain, or require the master to detain, the boat in the port.
- (8) Where a British sea-fishery officer detains or requires the detention of a boat under subsection (7)(b), the officer must serve notice in writing on the master stating that the boat is or, as the case may be, is required to, be detained until the time mentioned in subsection (9).
- (9) That time is when the master is served with a notice in writing signed by a British sea-fishery officer stating that the previous notice ceases to have effect.

#### **4B Powers of sea-fishery officers on land to enforce regulated fishery**

- (1) For the purpose of enforcing restrictions imposed by, or regulations made by, an order under section 1 conferring a right of regulating a fishery, a British

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sea-fishery officer may exercise the powers conferred by subsections (2) to (11) of this section in relation to—

- (a) any premises (other than a dwelling-house) used for—
  - (i) carrying on any business in connection with the operation of fishing boats;
  - (ii) an activity connected with or ancillary to the operation of fishing boats; or
  - (iii) the treatment, storage or sale of shellfish;
- (b) any vehicle which the officer has reasonable cause to believe is being used—
  - (i) to dredge, fish for or take shellfish; or
  - (ii) to transport shellfish.

- (2) The officer may enter and inspect, at any reasonable time, the premises or vehicle (and, in the case of a vehicle, for that purpose require the vehicle to stop or require the operator to take the vehicle to a particular place).
- (3) The officer may, in exercising the power conferred by subsection (2), take with the officer such other persons as appear to the officer to be necessary and any equipment or materials.
- (4) The officer may examine any shellfish on the premises or vehicle and require persons on the premises or vehicle to do anything which appears to the officer to be necessary for facilitating the examination.
- (5) The officer may on the premises or vehicle carry out such other inspections and tests as may reasonably be necessary.
- (6) The officer may require any person not to remove or cause to be removed any shellfish from the premises or vehicle for such a period as may be reasonably necessary for the purposes of establishing whether an offence under section 3(3) has at any time been committed.
- (7) The officer may require any person on the premises or vehicle to produce any relevant document in the person's custody or possession.
- (8) The officer may, for the purpose of establishing whether an offence under section 3(3) has been committed, search the premises or vehicle for any relevant document, and may require any person on the premises or vehicle to do anything which appears to the officer to be necessary for facilitating the search.
- (9) The officer may inspect and take copies of any relevant document produced or found on the premises or vehicle.
- (10) The officer may require any person to render any relevant document on a computer system into a visible and legible form and to produce it in a form in which it may be taken away.
- (11) If the officer has reasonable grounds to suspect that an offence under section 3(3) has been committed, the officer may seize and detain any relevant document produced or found on the premises or vehicle, for the purpose of enabling the document to be used as evidence in proceedings for the offence.

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- (12) A sheriff may, if satisfied by evidence on oath as to the matters mentioned in subsection (13), grant a warrant authorising a British sea-fishery officer to enter premises (if necessary using reasonable force), accompanied by such persons as appear to the officer to be necessary.
- (13) Those matters are—
- (a) that there are reasonable grounds to believe that anything which a British sea-fishery officer has power under this section to examine or inspect is on the premises and that the examination or inspection is likely to disclose evidence of the commission of an offence under section 3(3); and
  - (b) that any of the following is the case—
    - (i) admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under subsection (12) has been given to the occupier;
    - (ii) an application for admission, or the giving of such notice, would defeat the object of entry;
    - (iii) the premises are unoccupied or the occupier is temporarily absent and it might defeat the object of entry to await the return of the occupier.
- (14) A warrant under subsection (12) is valid for the period of one month beginning with the date on which it is granted or for such shorter period as the sheriff may specify.
- (15) In this section—
- “premises” includes land; and
  - “relevant document” means a document relating to the catching, landing, transportation, transhipment, sale or disposal of shellfish.

#### **4C Powers of British sea-fishery officers to seize fish and fishing gear**

- (1) A British sea-fishery officer may seize—
- (a) in Scotland or in the Scottish zone; or
  - (b) on a Scottish fishing boat wherever it may be,
- any shellfish and any net or other fishing gear to which subsection (2) applies.
- (2) This subsection applies to—
- (a) any shellfish in respect of which the officer has reasonable grounds to suspect that an offence under section 3(3) has been committed;
  - (b) any net or other fishing gear which the officer has reasonable grounds to suspect has been used in the commission of such an offence.
- (3) In this section—
- (a) “Scotland” has the meaning given by the Scotland Act 1998 (c. 46); and
  - (b) references to shellfish include any receptacle which contains shellfish.

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#### **4D Sections 4A to 4C: supplementary**

- (1) A British sea-fishery officer, or a person assisting such an officer by virtue of section 4A(2) or 4B(3) or (12), is not liable in any civil or criminal proceedings for anything done in the purported exercise of a power conferred by section 4A, 4B or 4C if the court is satisfied—
  - (a) that the act was done in good faith;
  - (b) that there were reasonable grounds for doing it; and
  - (c) that it was done with reasonable skill and care.
- (2) A person who—
  - (a) fails without reasonable excuse to comply with any requirement imposed on the person by a British sea-fishery officer under a power conferred by section 4A or 4B;
  - (b) without reasonable excuse prevents, or attempts to prevent, any other person from complying with such a requirement; or
  - (c) obstructs such an officer in the exercise of any of those powers or the powers conferred by section 4C,shall be guilty of an offence.
- (3) A person who commits an offence under subsection (2) is liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.”.
- (2) In section 22 of the Sea Fisheries (Shellfish) Act 1967 (c. 83) (interpretation), after the definition of “sea fishing boat” there is inserted the following definition—

““Scottish fishing boat” means a fishing vessel registered in the register maintained under section 8 of the Merchant Shipping Act 1995 (c. 21) whose entry in the register specifies a port in Scotland as the port to which the vessel is to be treated as belonging;”.
- (3) In section 15 of the Sea Fisheries Act 1968 (c. 77) (amendment of Sea Fisheries (Shellfish) Act 1967), after subsection (2) there is inserted—
  - (2A) The reference in section 3(1) of the Sea Fisheries (Shellfish) Act 1967 to an order under section 1 of that Act conferring on the grantees a right of regulating a fishery which imposes restrictions on, or makes regulations respecting, the dredging, fishing for and taking of shellfish shall be construed as including a reference to an order under section 1 of that Act conferring on the grantees such a right which enables the grantees, with the consent of the appropriate Minister, to impose such restrictions or make such regulations; and the references in sections 3(1)(a), (2) and (3) of that Act to restrictions and regulations shall be construed as including a reference to restrictions so imposed and regulations so made.
  - (2B) The references in sections 4A(1) and 4B(1) of the Sea Fisheries (Shellfish) Act 1967 to restrictions imposed by, or regulations made by, an order under section 1 of that Act conferring a right of regulating a fishery, shall be construed as including a reference to restrictions imposed by, or regulations made by, the grantees by virtue of an order under section 1 of that Act which

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enables the grantees, with the consent of the appropriate Minister, to impose such restrictions or make such regulations.”.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 47A inserted by [2023 c. 41 s. 45\(3\)](#)