



Aquaculture and Fisheries (Scotland) Act 2013

2013 asp 7

PART 4

SHELLFISH

Orders as to fisheries for shellfish

57 Enforcement of orders: powers of entry

- (1) The Sea Fisheries (Shellfish) Act 1967 is amended in accordance with this section.
- (2) After section 4C insert—

“4CA Power to enter land

- (1) For the purposes of exercising the powers conferred by sections 4A to 4C, and of enforcing the 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 at any time enter land (including the foreshore) other than a dwelling house, 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.
- (2) A British sea-fishery officer may—
 - (a) exercise the power of entry under subsection (1) on foot or in a vehicle,
 - (b) when exercising that power, take with the officer—

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- (i) such persons as appear to the officer to be necessary,
 - (ii) any equipment or material.
- (3) The power of entry under subsection (1)—
- (a) may not be exercised in relation to land in respect of which section 4B confers a power of entry, and
 - (b) is without prejudice to the power of entry conferred by that section.
- (4) A British sea-fishery officer who proposes to exercise the power of entry conferred by subsection (1) must, if so required, produce evidence of the officer's identity.”.
- (3) In section 4D—
- (a) in subsection (1)—
 - (i) for the words “or 4B(3) or (12)” substitute “ , 4B(3) or (12) or 4CA(2)(b) ”,
 - (ii) for the words “or 4C” substitute “ , 4C or 4CA ”,
 - (b) in subsection (2)(a), for the words “or 4B” substitute “ , 4B or 4CA ”,
 - (c) after subsection (2) insert—
 - “(2A) A constable may arrest without warrant any person who the constable reasonably believes is committing or has committed an offence under subsection (2) relating to—
 - (a) a failure to comply with a requirement imposed under a power conferred by section 4CA,
 - (b) obstructing a British sea-fishery officer in the exercise of such a power.
 - (2B) Subsection (2A) above is without prejudice to any power of arrest conferred by law apart from that subsection.”.
- (4) In the title to section 4D, for “4C” substitute “ 4CA ”.
- (5) After section 24 insert—

“24A Crown application: Scotland

- (1) Section 4CA 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 section 4D(2) in respect of a failure to comply with a requirement under a power conferred by section 4CA 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,

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(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.”.

Commencement Information

II S. 57 in force at 16.9.2013 by [S.S.I. 2013/249](#), **art. 2**

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