



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 8

#### ENFORCEMENT

### CHAPTER 2

#### COMMON ENFORCEMENT POWERS

##### *Introductory*

#### **245 Common enforcement powers**

- (1) This Chapter sets out the powers that may be exercised by a person who has the common enforcement powers conferred by this Act.
- (2) In this Chapter—
  - “enforcement officer” means any person who has the common enforcement powers conferred by this Act;
  - “relevant activity”, in relation to an enforcement officer, means any activity in respect of which the officer has functions;
  - “relevant function”, in relation to an enforcement officer, means any function of that officer;
  - “relevant offence”, in relation to an enforcement officer, means any offence in respect of which the officer has functions.
- (3) The powers conferred on an enforcement officer by any section in this Chapter are without prejudice to any powers exercisable by the officer apart from that section.

*Entry, search and seizure***246 Power to board and inspect vessels and marine installations**

- (1) For the purposes of carrying out any relevant functions, an enforcement officer may at any time board and inspect a vessel or marine installation.

This is subject to section 249 (which provides that a warrant is necessary to enter a dwelling).

- (2) For the purposes of exercising the power conferred by subsection (1), the officer may require a vessel or marine installation—
- (a) to stop, or
  - (b) to do anything else that will facilitate the boarding of that or any other vessel or marine installation.
- (3) An enforcement officer who has boarded a vessel or marine installation may, for the purposes of disembarking from the vessel or installation, require that or any other vessel or marine installation—
- (a) to stop, or
  - (b) to do anything else that will enable the officer, and any person accompanying the officer, to disembark from the vessel or installation.
- (4) An enforcement officer may require any person on board a vessel or marine installation to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by this section.

**247 Power to enter and inspect premises**

- (1) For the purposes of carrying out any relevant functions, an enforcement officer may enter and inspect any premises.

This is subject to section 249 (which provides that a warrant is necessary to enter a dwelling).

- (2) The officer may only exercise the power conferred by this section at a reasonable time, unless it appears to the officer that there are grounds for suspecting that the purpose of entering the premises may be frustrated if the officer seeks to enter at a reasonable time.
- (3) An enforcement officer may require any person in or on the premises to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of the power conferred by this section.
- (4) In this section “premises” includes land, but does not include any vehicle, vessel or marine installation.

**248 Power to enter and inspect vehicles**

- (1) For the purposes of carrying out any relevant functions, an enforcement officer may at any time—
- (a) enter and inspect any vehicle;
  - (b) stop and detain any vehicle for the purposes of entering and inspecting it.

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This is subject to section 249 (which provides that a warrant is necessary to enter a dwelling).

- (2) Where—
  - (a) an enforcement officer has stopped a vehicle under this section, and
  - (b) the officer considers that it would be impracticable to inspect the vehicle in the place where it has stopped,the officer may require the vehicle to be taken to such place as the officer directs to enable the vehicle to be inspected.
- (3) An enforcement officer may require—
  - (a) any person travelling in a vehicle, or
  - (b) the registered keeper of a vehicle,to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by this section.
- (4) The powers conferred by this section may be exercised in any place (whether or not it is a place to which the public has access).
- (5) In this section “vehicle” does not include any vessel.

## **249 Dwellings**

- (1) An enforcement officer may not by virtue of section 246, 247 or 248 enter any dwelling unless a justice has issued a warrant authorising the officer to enter the dwelling.
- (2) A justice may only issue such a warrant if, on an application by the officer, the justice is satisfied—
  - (a) that the officer has reasonable grounds for believing that there is material in the dwelling which for the purposes of carrying out any relevant functions the officer wishes to inspect, examine or seize, and
  - (b) that any of the conditions in subsection (3) is satisfied.
- (3) The conditions are—
  - (a) that it is not practicable to communicate with any person entitled to grant entry to the dwelling;
  - (b) that it is not practicable to communicate with any person entitled to grant access to that material;
  - (c) that entry to the dwelling is unlikely to be granted unless a warrant is produced;
  - (d) that the purpose of entry may be frustrated or seriously prejudiced unless an enforcement officer arriving at the dwelling can secure immediate entry to it.
- (4) Schedule 17 contains further provision about warrants issued under this section.
- (5) In this Chapter “justice” means—
  - (a) in relation to England and Wales, a justice of the peace;
  - (b) in relation to Northern Ireland, a lay magistrate;
  - (c) in relation to Scotland, a sheriff, stipendiary magistrate or justice of the peace.

**250 Powers of search, examination, etc**

- (1) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may—
  - (a) search the relevant premises for any item;
  - (b) examine anything that is in or on the relevant premises.
- (2) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may—
  - (a) search or examine anything which appears to be in the person’s possession or control;
  - (b) stop and detain the person for the purposes of such a search or examination.
- (3) An enforcement officer may carry out any measurement or test of anything which the officer has power under this section to examine.
- (4) The power conferred by subsection (3) includes power to take a sample from any live animal or plant.
- (5) For the purpose of exercising any power conferred by this section, an enforcement officer may, so far as is reasonably necessary for that purpose, break open any container or other locked thing.
- (6) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may require any person in or on the relevant premises to afford such facilities and assistance with respect to matters under that person’s control as the officer considers would facilitate the exercise of any power conferred by this section.
- (7) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person’s control as the officer considers would facilitate the exercise in relation to that person of any power conferred by this section.
- (8) Nothing in this section confers any power to search a person.
- (9) The reference in subsection (1) to anything that is in or on the relevant premises includes a reference to—
  - (a) anything that is attached to or otherwise forms part of the relevant premises, and
  - (b) anything that is controlled from the relevant premises.
- (10) In this section—
  - “animal” includes any egg, larva, pupa, or other immature stage of an animal;
  - “item” includes—
    - (a) any document or record (in whatever form it is held);
    - (b) any animal or plant;
  - “sample” means a sample of blood, tissue or other biological material.

## **251 Power to require production of documents, etc**

- (1) This section applies where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248.
- (2) The officer may require any person in or on the relevant premises to produce any document or record that is in the person's possession or control.
- (3) A reference in this section to the production of a document includes a reference to the production of—
  - (a) a hard copy of information recorded otherwise than in hard copy form, or
  - (b) information in a form from which a hard copy can be readily obtained.
- (4) For the purposes of this section—
  - (a) information is recorded in hard copy form if it is recorded in a paper copy or similar form capable of being read (and references to hard copy have a corresponding meaning);
  - (b) information can be read only if—
    - (i) it can be read with the naked eye, or
    - (ii) to the extent that it consists of images (for example photographs, pictures, maps, plans or drawings), it can be seen with the naked eye.

## **252 Powers of seizure, etc**

- (1) An enforcement officer who is exercising a power of inspection conferred by section 246, 247 or 248 may—
  - (a) seize and detain or remove any item found on the relevant premises;
  - (b) take copies of or extracts from any document or record found on the relevant premises.
- (2) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may seize and detain or remove any item which appears to be in the person's possession or control.
- (3) An enforcement officer to whom any document or record has been produced in accordance with a requirement imposed under section 251 may—
  - (a) seize and detain or remove that document or record;
  - (b) take copies of or extracts from that document or record.

In this subsection “document” includes anything falling within paragraph (a) or (b) of section 251(3).
- (4) The powers conferred by this section may only be exercised—
  - (a) for the purposes of determining whether a relevant offence has been committed, or
  - (b) in relation to an item which an enforcement officer reasonably believes to be evidence of the commission of a relevant offence.
- (5) Subject to subsection (6), an enforcement officer who is exercising a power of inspection conferred by section 246, 247 or 248 may not remove from the relevant premises any item which is required by law to be kept on the relevant premises.
- (6) An enforcement officer may remove such an item from a vessel while it is being detained in a port.

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

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- (7) Nothing in this section confers power on an enforcement officer to seize an item which the officer has reasonable grounds for believing to be—
- (a) an item subject to legal privilege (within the meaning of the [Police and Criminal Evidence Act 1984 \(c. 60\)](#)), or
  - (b) an item in respect of which a claim to confidentiality of communications could be maintained in legal proceedings in Scotland.

### **253 Further provision about seizure**

- (1) Where—
- (a) any items which an enforcement officer wishes to seize and remove are in a container, and
  - (b) the officer reasonably considers that it would facilitate the seizure and removal of the items if they remained in the container for that purpose,
- any power to seize and remove the items conferred by section 252 includes power to seize and remove the container.
- (2) Where—
- (a) any items which an enforcement officer wishes to seize and remove are not in a container, and
  - (b) the officer reasonably considers that it would facilitate the seizure and removal of the items if they were placed in a container suitable for that purpose,
- the officer may require the items to be placed into such a container.
- (3) If, in the opinion of an enforcement officer, it is not for the time being practicable for the officer to seize and remove any item, the officer may require—
- (a) the person from whom the item is being seized, or
  - (b) where the officer is exercising a power of inspection conferred by section 246, 247 or 248, any person in or on the relevant premises,
- to secure that the item is not removed or otherwise interfered with until such time as the officer may seize and remove it.
- (4) Where an enforcement officer is exercising a power of inspection conferred by section 246, 247 or 248, the officer may require any person in or on the relevant premises to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise of any power conferred by section 252 or this section.
- (5) Where an enforcement officer reasonably believes that a person is or has been carrying on a relevant activity, the officer may require that person to afford such facilities and assistance with respect to matters under that person's control as the officer considers would facilitate the exercise in relation to that person of any power conferred by section 252 or this section.
- (6) In section 66 of the [Criminal Justice and Police Act 2001 \(c. 16\)](#) (general interpretation of Part 2) in subsection (1)—
- (a) before the definition of “premises” insert—
 

““marine installation” has the meaning given by section 262 of the Marine and Coastal Access Act 2009;”;
  - (b) in the definition of “premises”, after “offshore installation” insert “or other marine installation”.

- (7) In Part 1 of Schedule 1 to that Act (powers of seizure to which section 50 applies), after paragraph 73K insert—

*“Marine and Coastal Access Act 2009 (c. 23)*

73L Each of the powers of seizure conferred by section 252(1) and (3) of the Marine and Coastal Access Act 2009.”

#### **254 Retention of seized items**

- (1) This section applies to any item seized in the exercise of a power conferred by section 252.
- (2) The item may be retained so long as is necessary in all the circumstances and in particular—
- (a) for use as evidence at a trial for a relevant offence, or
  - (b) for forensic examination or for investigation in connection with a relevant offence.
- (3) No item may be retained for either of the purposes mentioned in subsection (2) if a photograph or a copy would be sufficient for that purpose.

#### *Miscellaneous and ancillary powers*

#### **255 Power to record evidence of offences**

- (1) An enforcement officer may use any device for the purpose of taking visual images of anything which the officer believes is evidence of the commission of a relevant offence.
- (2) The power conferred by this section is exercisable in relation to—
- (a) anything that is in or on,
  - (b) anything that is attached to or otherwise forms part of, or
  - (c) anything that is controlled from,
- any vessel, marine installation, premises or vehicle.
- (3) The officer may require any person in or on the vessel, marine installation, premises or vehicle to afford such facilities and assistance with respect to matters under that person’s control as the officer considers would facilitate the exercise of the power conferred by this section.

#### **256 Power to require name and address**

Where an enforcement officer reasonably believes that a person has committed a relevant offence, the officer may require the person to provide the person’s name and address.

#### **257 Power to require production of licence, etc**

- (1) Where an enforcement officer reasonably believes—
- (a) that a person is or has been carrying on a relevant activity, and

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(b) that the person requires a licence or other authority to carry on that activity, the officer may require the person to produce that licence or other authority.

(2) If the person is unable to produce the licence or other authority when required to do so, the person must produce it at such place, and within such period of time, as the officer may specify.

## **258 Power to require attendance of certain persons**

(1) This section applies where an enforcement officer has—

- (a) boarded a vessel or marine installation, or
- (b) entered any premises.

(2) For the purposes of carrying out any relevant functions, the officer may require the attendance of—

- (a) the person who is for the time being in charge of the vessel or marine installation;
- (b) any other person who is on board the vessel or marine installation;
- (c) the owner or occupier of the premises;
- (d) any person who is on the premises.

## **259 Power to direct vessel or marine installation to port**

(1) This section applies where—

- (a) an enforcement officer considers that it would not be reasonably practicable for the officer to exercise a power which the officer wishes to exercise in relation to a vessel or marine installation without detaining the vessel or marine installation in a port, or
- (b) an enforcement officer reasonably believes that—
  - (i) a vessel or marine installation is itself evidence of the commission of a relevant offence, and
  - (ii) the only reasonably practicable way to preserve that evidence is to detain the vessel or marine installation in a port.

(2) The officer may—

- (a) take, or arrange for another person to take, the vessel or marine installation and its crew to the port which appears to the officer to be the nearest convenient port, or
- (b) require the person who is for the time being in charge of the vessel or marine installation to take it and its crew to that port.

(3) When the vessel or marine installation has been taken to a port, the officer may—

- (a) detain it there, or
- (b) require the person for the time being in charge of it to do so.

(4) An enforcement officer who detains any vessel or marine installation under this section must serve a notice on the person who is for the time being in charge of it.

(5) The notice must state that the vessel or marine installation is to be detained until the notice is withdrawn.



(6) A notice served under subsection (4) may be withdrawn by service of a further notice signed by an appropriate enforcement officer.

(7) In subsection (6) the reference to an appropriate enforcement officer is a reference to any enforcement officer acting on behalf of the same relevant authority as the enforcement officer who served the notice under subsection (4), and includes a reference to that officer.

“Relevant authority” means the person or body on whose behalf the officer who detained the vessel or marine installation was acting.

## **260 Assistance etc**

(1) To assist in carrying out any relevant functions, an enforcement officer may bring—

- (a) any other person;
- (b) any equipment or materials.

(2) A person who is brought by an enforcement officer to provide assistance may exercise any powers conferred by this Act which the officer may exercise, but only under the supervision or direction of the officer.

## **261 Power to use reasonable force**

(1) An enforcement officer may use reasonable force, if necessary, in the exercise of any power conferred by this Act.

(2) A person assisting an enforcement officer under section 260 may use reasonable force, if necessary, in the exercise of any power conferred by this Act.

### *Interpretation*

## **262 Interpretation of this Chapter**

(1) In this Chapter—

“common enforcement power” means any power conferred by sections 246 to 261;

“enforcement officer” has the meaning given by section 245;

“item” has the meaning given by section 250(10);

“justice” has the meaning given by section 249(5);

“marine installation” means any artificial island, installation or structure (other than a vessel);

“premises” has the meaning given by section 247(4);

“relevant activity”, “relevant function” and “relevant offence” have the meaning given by section 245;

“the relevant premises”, in relation to an enforcement officer exercising a power of inspection conferred by section 246, 247 or 248, means the vessel, marine installation, premises or vehicle in relation to which the power is being exercised.

(2) In this Chapter any reference to a vessel includes a reference to—

- (a) any ship or boat or any other description of vessel used in navigation,

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(b) any hovercraft, submersible craft or other floating craft, and

(c) any aircraft,

but does not include a reference to anything that permanently rests on, or is permanently attached to, the sea bed.