



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 8

ENFORCEMENT

CHAPTER 4

FISHERIES ENFORCEMENT POWERS

Inspection and seizure of objects at sea

264 Power to inspect and seize objects at sea

- (1) For the purposes of carrying out any relevant functions, an enforcement officer who has the power conferred by this section may inspect any object in the sea which the officer believes has been or is being used for or in connection with fishing.

The officer may lift an object out of the sea for the purposes of inspecting it under this section.

- (2) An enforcement officer who has inspected an object under this section may seize the object.
- (3) The power conferred by subsection (2) may only be exercised—
- (a) for the purposes of determining whether a relevant offence has been committed, or
 - (b) in relation to an object which an enforcement officer reasonably believes to be evidence of the commission of a relevant offence.
- (4) If, having inspected an object under this section, the officer decides not to seize it under subsection (2), the officer must, if it is reasonably practicable to do so, replace the object in the location where it was found.

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- (5) If it is not reasonably practicable to replace the object in accordance with subsection (4), the officer may seize the object until such time as it may be collected by its owner.
- (6) Any power conferred by this section to seize an object includes power to seize—
 - (a) anything that is attached to the object;
 - (b) anything that is contained within the object.
- (7) Any reference in this section to replacing an object includes, in the case of fishing gear, a reference to re-setting the gear in the same way in which it was placed in the sea.
- (8) The powers conferred on an enforcement officer by this section are without prejudice to any powers exercisable by the officer apart from this section.

265 Reports of inspections under section 264

- (1) This section applies where an enforcement officer inspects any object under section 264.
- (2) The officer must prepare a report in relation to the inspection.
- (3) The report must state—
 - (a) the date and time of the inspection;
 - (b) the identity of the officer who carried out the inspection;
 - (c) how the officer may be contacted.
- (4) In the case of an object seized under section 264(2) or (5), the report must also state—
 - (a) what has been seized;
 - (b) the reasons for its seizure;
 - (c) any further action that it is proposed will be taken in relation to the object.
- (5) Where the object has not been seized under section 264(2) or (5), the officer must, if it is reasonably practicable to do so, attach a copy of the report to the object.

If it is not reasonably practicable to attach a copy of the report to the object, the officer must serve a copy of the report on every person who appears to the officer to be the owner, or one of the owners, of the object.

- (6) In a case where the officer, after taking reasonable steps to do so, is unable to identify any person as owning the object, the officer must take such steps as the officer thinks fit to bring the contents of the report to the attention of persons likely to be interested in it.
- (7) Where—
 - (a) the object has been seized under section 264(2), and
 - (b) either of the conditions in subsection (8) is satisfied,the relevant authority must, if it has not already done so, serve a copy of the report on every person who appears to the authority to be the owner, or one of the owners, of the object.
- (8) The conditions are—
 - (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the object was seized;

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- (b) that any proceedings taken in respect of such an offence have concluded.
- (9) Where the object has been seized under section 264(5), the relevant authority must serve a copy of the report on every person who appears to the authority to be the owner, or one of the owners, of the object at the same time as it serves a notice of collection on that person under section 267.
- (10) In a case where the relevant authority, after taking reasonable steps to do so, is unable to identify any person as owning the object—
 - (a) any reference in this section to a requirement for the authority to serve a copy of a report on such a person is to be read as a reference to a requirement to take such steps as the authority thinks fit to bring the contents of the report to the attention of persons likely to be interested in it, and
 - (b) the reference in subsection (9) to serving a notice of collection under section 267 is to be read as a reference to taking the steps referred to in subsection (5) of that section.

266 Retention of objects seized under section 264(2)

- (1) Any object seized by an enforcement officer under section 264(2) may be retained by the relevant authority.
- (2) If either of the grounds of release in subsection (3) applies, the relevant authority must, as soon as is reasonably practicable, make the object available for collection.
- (3) The grounds of release referred to in subsection (2) are—
 - (a) that the relevant authority has decided not to take proceedings in respect of any offence in relation to which the object was seized;
 - (b) that any proceedings taken in respect of such an offence have concluded without any order for forfeiture having been made.
- (4) But subsection (2) does not apply if the object is liable to forfeiture under section 275 or 276.
- (5) Any reference in this section to an object seized under subsection (2) of section 264 includes a reference to anything seized by virtue of subsection (6) of that section.

267 Disposal of objects seized under section 264

- (1) This section applies to—
 - (a) any object seized under section 264(2) which the relevant authority—
 - (i) no longer wishes to retain for any purpose, or
 - (ii) is required to make available for collection by virtue of section 266;
 - (b) any object seized under section 264(5).
- (2) In this section a “notice of collection” is a notice stating that—
 - (a) the object specified in the notice is available to be collected from the location so specified, and
 - (b) if the object is not collected before the end of the period of three months beginning with the date specified in the notice, the relevant authority will dispose of the object.

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- (3) The relevant authority must serve a notice of collection on every person who appears to the authority to be the owner, or one of the owners, of the object.
- (4) The relevant authority may take any other steps it thinks fit to notify every such person that the object is available to be collected.
- (5) If the relevant authority, after taking reasonable steps to do so, is unable to identify any person as owning the object in order to serve a notice of collection, the relevant authority must take such steps as it thinks fit to bring the information contained in the notice of collection to the attention of persons likely to be interested in it.
- (6) If the relevant authority complies with subsection (3) or subsection (5), as the case may be, the relevant authority may, at the end of the period mentioned in subsection (2)(b), dispose of the object in whatever way it thinks fit.
- (7) Any reference in this section to an object seized under subsection (2) or (5) of section 264 includes a reference to anything seized by virtue of subsection (6) of that section.