



Policing and Crime Act 2017

2017 CHAPTER 3

PART 4

POLICE POWERS

CHAPTER 6

MARITIME ENFORCEMENT: SCOTTISH OFFENCES

Application of maritime enforcement powers: general

96 Application of maritime enforcement powers: general

- (1) A law enforcement officer may, for the purpose of preventing, detecting or investigating an offence under the law of Scotland, exercise any of the maritime enforcement powers in relation to—
 - (a) a United Kingdom ship in Scotland waters, foreign waters or international waters,
 - (b) a ship without nationality in Scotland waters or international waters,
 - (c) a foreign ship in Scotland waters or international waters, or
 - (d) a ship, registered under the law of a relevant territory, in Scotland waters or international waters.
- (2) In this Chapter, “the maritime enforcement powers” are the powers set out in—
 - (a) section 100 (power to stop, board, divert and detain);
 - (b) section 101 (power to search and obtain information);
 - (c) section 102 (power of arrest and seizure).
- (3) The following persons are “law enforcement officers” for the purpose of this Chapter—
 - (a) a constable within the meaning of section 99 of the Police and Fire Reform (Scotland) Act 2012 ([2012 asp 8](#)),

Status: This is the original version (as it was originally enacted).

- (b) a constable who is a member of the British Transport Police Force,
 - (c) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act),
 - (d) a designated NCA officer who is authorised by the Director General of the National Crime Agency (whether generally or specifically) to exercise the powers of a law enforcement officer under this Chapter, or
 - (e) a person of a description specified in regulations made by the Secretary of State.
- (4) Regulations under subsection (3)(e) are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under subsection (3)(e) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Regulations under subsection (3)(e) may not make devolved provision except with the consent of the Scottish Ministers.
- (7) For the purpose of subsection (6), regulations under subsection (3)(e) make devolved provision if and to the extent that the effect of the regulations is to confer functions under this Chapter on a person of a description specified in the regulations and it would be within the legislative competence of the Scottish Parliament to confer those functions on persons of that description in an Act of the Scottish Parliament.
- (8) This section is subject to section 97 (which makes provision about when the authority of the Secretary of State is required before the maritime enforcement powers are exercised in reliance on this section).

97 Restriction on exercise of maritime enforcement powers

- (1) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 96(1), in relation to a United Kingdom ship in foreign waters.
- (2) The Secretary of State may give authority under subsection (1) only if the State, or the relevant territory, in whose waters the powers would be exercised consents to the exercise of the powers.
- (3) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 96(1), in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to Scotland or in international waters.
- (4) The Secretary of State may give authority under subsection (3) in relation to a foreign ship only if—
- (a) the home state has requested the assistance of the United Kingdom for the purpose of preventing, detecting or investigating an offence under the law of Scotland,
 - (b) the home state has authorised the United Kingdom to act for that purpose, or
 - (c) the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) otherwise permits the exercise of the powers in relation to the ship.