



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](#)),

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- (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.

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Ships in England and Wales waters: hot pursuit

98 Hot pursuit of ships in England and Wales waters

- (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 ship in England and Wales waters if—
 - (a) the ship is pursued there,
 - (b) immediately before the pursuit of the ship, the ship was in Scotland waters or international waters,
 - (c) before the pursuit of the ship, a signal was given for it to stop,
 - (d) the signal was given in such a way as to be audible or visible from the ship, and
 - (e) the pursuit of the ship is not interrupted.
- (2) For the purposes of subsection (1)(e), pursuit is not interrupted by reason only of the fact that—
 - (a) the method of carrying out the pursuit, or
 - (b) the identity of the ship or aircraft carrying out the pursuit,changes during the course of the pursuit.
- (3) This section is subject to section 99 (which requires the authority of the Secretary of State before the maritime enforcement powers are exercised in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to England and Wales).

99 Restriction on exercise of maritime enforcement powers in hot pursuit

- (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 98 in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to England and Wales.
- (2) The Secretary of State may give authority under subsection (1) 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.

The maritime enforcement powers

100 Power to stop, board, divert and detain

- (1) This section applies if a law enforcement officer has reasonable grounds to suspect that—
 - (a) an offence under the law of Scotland is being, or has been, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 96 or 98, or

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- (b) a ship in relation to which those powers are so exercisable is otherwise being used in connection with the commission of an offence under that law.
- (2) The law enforcement officer may—
 - (a) stop the ship;
 - (b) board the ship;
 - (c) require the ship to be taken to a port in Scotland or elsewhere and detained there.
 - (3) Except as provided by subsection (5), the authority of the Secretary of State is required before a law enforcement officer may exercise the power conferred by subsection (2)(c) to require the ship to be taken to a port outside the United Kingdom.
 - (4) The Secretary of State may give authority for the purposes of subsection (3) only if the State, or the relevant territory, in which the port is located is willing to receive the ship.
 - (5) If the law enforcement officer is acting under authority given for the purposes of section 97(3) or 99(1), the law enforcement officer may require the ship to be taken to—
 - (a) a port in the home state or relevant territory in question, or
 - (b) if the home state or relevant territory requests, a port in any other State or relevant territory willing to receive the ship.
 - (6) The law enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of subsection (2)(c).
 - (7) A law enforcement officer must give notice in writing to the master of any ship detained under this section.
 - (8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a law enforcement officer.

101 Power to search and obtain information

- (1) This section applies if a law enforcement officer has reasonable grounds to suspect that there is evidence relating to an offence under the law of Scotland (other than items subject to legal privilege) on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 96 or 98.
- (2) The law enforcement officer may search—
 - (a) the ship;
 - (b) anyone found on the ship;
 - (c) anything found on the ship (including cargo).
- (3) The law enforcement officer may require a person found on the ship to give information about himself or herself.
- (4) The power to search conferred by subsection (2) is a power to search only to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in subsection (1).
- (5) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.

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- (6) In exercising a power conferred by subsection (2) or (3), a law enforcement officer may (amongst other things)—
- (a) open any containers;
 - (b) require the production of documents, books or records relating to the ship or anything on it, other than anything that the law enforcement officer has reasonable grounds to believe to be an item subject to legal privilege;
 - (c) make photographs or copies of anything the production of which the law enforcement officer has power to require.
- (7) The power in subsection (6)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away.
- (8) The power of a law enforcement officer under subsection (2)(b) or (c) or (3) may be exercised on the ship or elsewhere.

102 Power of arrest and seizure

- (1) This section applies if a law enforcement officer has reasonable grounds to suspect that an offence under the law of Scotland has been, or is being, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 96 or 98.
- (2) The law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence.
- (3) The law enforcement officer may seize and retain anything found on the ship which appears to the officer to be evidence of the offence, other than anything that the officer has reasonable grounds to believe to be an item subject to legal privilege.
- (4) The power of a law enforcement officer under subsection (2) or (3) may be exercised on the ship or elsewhere.

Supplementary provision

103 Maritime enforcement powers: supplementary: protective searches

- (1) This section applies where a power conferred by section 100 is exercised in relation to a ship.
- (2) A law enforcement officer may search any person found on the ship for anything which the officer has reasonable grounds to believe the person might use to—
- (a) cause physical injury,
 - (b) cause damage to property, or
 - (c) endanger the safety of any ship.
- (3) The power under subsection (2) may be exercised on board the ship or elsewhere.
- (4) A law enforcement officer searching a person under subsection (2) may seize and retain anything found if the law enforcement officer has reasonable grounds to believe that the person might use it for a purpose mentioned in paragraphs (a) to (c) of that subsection.

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- (5) Anything seized under subsection (4) may be retained only for so long as there are reasonable grounds to believe that it might be used as mentioned in that subsection.
- (6) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public, other than an outer coat, jacket or gloves.

104 Maritime enforcement powers: other supplementary provision

- (1) A law enforcement officer may—
 - (a) be accompanied by other persons, and
 - (b) take equipment or materials,to assist the officer in the exercise of powers under this Chapter.
- (2) A law enforcement officer may use reasonable force, if necessary, in the performance of functions under this Chapter.
- (3) A person accompanying a law enforcement officer under subsection (1) may perform any of the officer's functions under this Chapter, but only under the officer's supervision.
- (4) A law enforcement officer must produce evidence of the officer's authority if asked to do so.
- (5) The powers conferred by this Chapter do not affect any other powers that a law enforcement officer may have.

105 Maritime enforcement powers: offences

- (1) A person commits an offence if the person—
 - (a) intentionally obstructs a law enforcement officer in the performance of functions under this Chapter, or
 - (b) fails without reasonable excuse to comply with a requirement imposed by a law enforcement officer in the performance of those functions.
- (2) A person who provides information in response to a requirement imposed by a law enforcement officer in the performance of functions under this Chapter commits an offence if—
 - (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
 - (b) the person intentionally fails to disclose any material particular.
- (3) A law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this section.
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

106 Interpretation

- (1) In this Chapter—
 - “designated NCA officer” means a National Crime Agency officer who is either or both of the following—

(a) an officer designated under section 10 of the Crime and Courts Act 2013 as having the powers and privileges of a constable who is entitled to exercise the powers and privileges of a Scottish constable (see paragraph 11(3) to (5) of Schedule 5 to that Act);

(b) an officer designated under that section as having the powers of a general customs official;

“England and Wales waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales;

“foreign ship” means a ship which—

(a) is registered in a State other than the United Kingdom, or

(b) is not so registered but is entitled to fly the flag of a State other than the United Kingdom;

“foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or State other than the United Kingdom;

“home state”, in relation to a foreign ship, means—

(a) the State in which the ship is registered, or

(b) the State whose flag the ship is otherwise entitled to fly;

“international waters” means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory;

“items subject to legal privilege” has the same meaning as in Chapter 3 of Part 8 of the Proceeds of Crime Act 2002 (see section 412 of that Act);

“law enforcement officer” has the meaning given by section 96(3);

“maritime enforcement powers” has the meaning given by section 96(2);

“relevant territory” means—

(a) the Isle of Man;

(b) any of the Channel Islands;

(c) a British overseas territory;

“Scotland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Scotland;

“ship” includes every description of vessel (including a hovercraft) used in navigation;

“ship without nationality” means a ship which—

(a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or

(b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience;

“United Kingdom ship” means a ship which—

(a) is registered under Part 2 of the Merchant Shipping Act 1995,

(b) is a Government ship within the meaning of that Act,

(c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or

(d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968.

(2) For the purposes of paragraph (c) of the definition of “United Kingdom ship” in subsection (1), a person has a “United Kingdom connection” if the person is—

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- (a) a British citizen, a British overseas territories citizen or a British Overseas citizen,
 - (b) an individual who is habitually resident in the United Kingdom, or
 - (c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom.
- (3) References in this Chapter to the United Nations Convention on the Law of the Sea include references to any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom.