

Policing and Crime Bill

Police powers in the maritime environment

Introduction

1. The Bill provides police officers, and other members of law enforcement agencies, with certain powers in maritime environments so that they are able to prevent, detect, investigate and prosecute criminal offences that take place on vessels where the courts in England and Wales have jurisdiction, and ensures that such officers are capable of functioning effectively in a maritime context.

Background

2. Police forces, and other law enforcement agencies such as the National Crime Agency (NCA), have raised concerns that they are unable to exercise significant powers outside of UK territorial waters by virtue of section 30 of the Police Act 1996, which places a geographical restriction on the jurisdiction of police constables.
3. There are limited maritime enforcement powers in section 20 of and Schedule 3 to the Criminal Justice (International Co-operation) Act 1990 (“the 1990 Act”) and in Part 3 of, and Schedule 2 to, the Modern Slavery Act 2015 (“the 2015 Act”).
4. The enforcement powers in the 1990 Act are limited to tackling drug trafficking offences on British ships and the importation or exportation of controlled drugs on British ships, vessels registered in a state party to the Vienna Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and stateless vessels. The powers are only exercisable outside UK territorial waters in respect of vessels in a Convention state, or within the territorial waters of another state in respect of any vessel, with the permission of the relevant state. For the purpose of detecting and enforcing such offences, the 1990 Act confers powers on constables, customs officials and other specified enforcement officers (and persons assisting them) to: stop, board, divert and detain ships; search ships and require anyone on board to provide information; arrest persons and seize and detain anything found on the ship which may be evidence of a relevant offence; and use reasonable force to perform such functions.
5. Part 3 of the 2015 Act conferred similar enforcement powers on the police, the British Transport Police, port constables, designated NCA officers, designated customs officials and certain members of Her Majesty’s Armed Forces for the purpose of tackling offences in respect of human trafficking; slavery, servitude, and forced or compulsory labour. Under the 2015 Act the powers are exercisable in relation to:
 - a United Kingdom ship in UK waters, foreign waters or international waters;
 - a stateless ship in UK waters or international waters;
 - a foreign ship in UK waters or international waters, or
 - a ship, registered in the Channel Islands, Isle of Man or a British overseas territory, in UK waters or international waters.

6. These Acts therefore only permit the use of police powers in a maritime context with respect to certain criminal offences. The Immigration Bill will introduce further such powers.¹

Solution

7. The Bill introduces enforcement powers similar to the bespoke enforcement powers conferred by the 2015 Act to enable law enforcement officers to deal effectively with criminal offences in territorial, international and foreign waters.
8. The powers that the Bill confers on law enforcement officers for use in a maritime context are:
 - a) powers to stop, board, divert and detain;
 - b) powers to search and obtain information; and
 - c) powers of arrest and seizure.
9. In line with international law, the powers will apply in relation to the following ships in the following circumstances:
 - a) UK ships in England and Wales, international and foreign waters;
 - b) stateless ships within England and Wales waters and international waters;
 - c) foreign ships within England and Wales waters; and
 - d) ships registered in the Isle of Man, any of the Channel Islands or a British overseas territory within England and Wales waters.
10. In combination, these provisions will enable the police to deal with criminal offences in the maritime environment, and will provide them with fuller operational capability. They also provide for a power of “hot pursuit” to allow constables to pursue vessels into the territorial waters of Scotland and Northern Ireland from either England or Wales waters or international waters.
11. The England and Wales maritime powers in the Bill are also replicated in Scotland.

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¹ See factsheet at <https://www.gov.uk/government/publications/immigration-bill-part-6-border-security>