

*These notes relate to the Nature Conservation (Scotland) Act
2004 (asp 6) which received Royal Assent on 11 June 2004*

NATURE CONSERVATION (SCOTLAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Conservation and Enhancement of Natural Features

Chapter 2 -Nature Conservation Orders

Section 27 Offences in relation to nature conservation orders

202. This section establishes that a criminal offence is committed, if an operation prohibited by an NCO is carried out (or is permitted or caused to be carried out) on land to which the NCO applies. The penalty for such an offence is a fine of up to £40,000 on summary conviction. On conviction on indictment, the Court is empowered to impose any fine (including one in excess of £40,000) which appears to it to be appropriate in the light of the facts of the case.
203. Subsection (2) states that it is not a valid defence to argue that the prohibited operation did not in fact cause damage to the natural features protected by the NCO. It is the carrying out of the prohibited operation which constitutes the offence in this case, not the causing of damage. Any argument that no damage was done is therefore irrelevant.