

MARINE (SCOTLAND) ACT 2010

EXPLANATORY NOTES

THE ACT

Part 5 – Marine Protection and Enhancement: the Scottish Marine Protection Area

General duties of public authorities

Section 82 - Duties of public authorities in relation to marine protected areas etc.

129. **Section 82** requires public authorities to exercise their functions (so far as is consistent with the proper exercise of these functions) in a manner which best furthers or least hinders the stated objectives or purposes of individual MPAs. The public authority must also exercise those functions in the manner best calculated to further the contribution of a Nature Conservation MPA to a network of conservation sites as specified in section 79.
130. Where a public authority believes that any of its functions is such that the exercise of the function would or might significantly hinder the achievement of the relevant objectives or purpose of the MPA, it must inform Scottish Ministers and (if appropriate) SNH of that fact.
131. If a public authority intends to do an act and it believes there is or may be a significant risk of the act hindering the achievement of the objectives or purpose in subsection (2) (a) (furthering the stated objectives or purpose of an MPA), it must notify Scottish Ministers and if appropriate SNH. The authority must wait 28 days from notifying Scottish Ministers or SNH before deciding whether to act or not, unless the Scottish Ministers have stated they need not wait or if the authority deems that there is an urgent need to act. Authorities need not notify Scottish Ministers or SNH in such instances if guidance has already been provided by the Scottish Ministers or SNH, and that the guidance has not ceased to apply. This section also requires that if an authority considers there has been an act or omission in relation to the exercise of its duties which is an offence and which it believes will or may significantly hinder the achievement of the objective or purpose of an MPA, it must inform Scottish Ministers and (if appropriate) SNH. In carrying out its duties under this section a public authority must have regard to any advice given by SNH or Scottish Ministers under sections 80 and 81.
132. Where a public authority has any function, the exercise of which is capable of significantly affecting any protected feature of a Nature conservation MPA, it must (so far as is consistent with the proper exercise of its functions), exercise its functions in the way best calculated by it to further the contribution of the Nature Conservation MPA in question to a network of conservation sites. The network of conservation sites refers to the network referred to in section 79(2).