Marine (Scotland) Act 2010

2010 asp 5

PART 5

MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTION AREA

Offences

96   Offences relating to marine historic assets

(1) A person commits an offence under this section if the person—

  (a) intentionally or recklessly does a prohibited act in a Historic MPA (the "protected area"), and

  (b) the act has significantly hindered, or may significantly hinder, the achievement of the stated preservation objectives for the protected area.

(2) For the purposes of subsection (1), a person does a prohibited act if the person—

  (a) carries out works or activities in the area which (or which are likely to)—

      (i) damage or interfere with a marine historic asset,

      (ii) have a significant impact on the protected area,

  (b) removes, alters or disturbs a marine historic asset.

(3) A person who does anything which would, but for this subsection, amount to an offence under this section does not commit the offence if it is shown that—

  (a) the act was the incidental result of a lawful operation,

  (b) the person who carried out the lawful operation—

      (i) took reasonable precautions for the purpose of carrying out the act, or

      (ii) did not foresee, and could not reasonably have foreseen, that the act would be an incidental result of the carrying out of the lawful operation, and

  (c) the person took such steps as were reasonably practicable in all the circumstances to minimise the hindrance (or potential hindrance) to the preservation objectives.

(4) A person who is guilty of an offence under this section is liable—

  (a) on summary conviction, to a fine not exceeding £50,000,

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(b)   on conviction on indictment, to a fine.

(5) In determining the amount of any fine to be imposed on a person convicted of an offence under this section, the court must in particular have regard to any financial benefit which has accrued or appears likely to accrue to the person in consequence of the offence.