



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 5

NATURE CONSERVATION

CHAPTER 1

MARINE CONSERVATION ZONES [F¹ AND MANAGEMENT OF SEA FISHERIES]

Offences

139 Offence of contravening byelaws or orders

(1) It is an offence for a person to contravene—

- (a) any byelaw made under section 129 [F¹, 129A, 129B or 132(1) or (1A)];
- (b) any order made under section 134 [F², 134A, 134B, 136(1) or (1A), 137A, 137C, 137E or 137G].

[F³(2) A person who is guilty of an offence under this section in respect of a contravention of—

- (a) a byelaw made under section 129 or 129A,
- (b) a byelaw made under section 132(1),
- (c) an order made under section 134 or 134A, or
- (d) an order made under section 136(1),

is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2A) A person who is guilty of an offence under this section in respect of a contravention of a byelaw or order not specified in subsection (2) is liable—

- (a) on conviction on indictment, to a fine, or
- (b) on summary conviction, to a fine (in Scotland or Northern Ireland, not exceeding the statutory maximum).]

Changes to legislation: *Marine and Coastal Access Act 2009, Cross Heading: Offences is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (3) In this section “contravene” includes fail to comply.
- (4) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of [F4the United Kingdom].

Textual Amendments

- F1** Words in s. 139(1)(a) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), [Sch. 10 para. 23\(2\)\(a\)](#) (with [Sch. 4 para. 31](#))
- F2** Words in s. 139(1)(b) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), [Sch. 10 para. 23\(2\)\(b\)](#) (with [Sch. 4 para. 31](#))
- F3** S. 139(2)(2A) substituted for s. 139(2) (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), [Sch. 10 para. 23\(3\)](#) (with [Sch. 4 para. 31](#))
- F4** Words in s. 139(4) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), [Sch. 10 para. 23\(4\)](#) (with [Sch. 4 para. 31](#))

Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 1 applied (with modifications) by S.I. 1994/2716, reg. 36(3)(4) (as substituted (E.W.) (12.1.2010 for specified purposes, 12.12.2014 in so far as not already in force) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(2)(b)(i), [Sch. 11 para. 4\(1\)](#); S.I. 2014/3088, art. 2(b))

Commencement Information

- I1** S. 139 partly in force; s. 139 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I2** S. 139 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

140 Offence of damaging etc protected features of MCZs

- (1) A person is guilty of an offence under this section if—
- (a) the person without lawful excuse does a prohibited act,
 - (b) at the time of doing that act, the person knows, or ought to have known, that the feature to which the act relates is in, or forms part of, an MCZ, and
 - (c) the act has significantly hindered, or may significantly hinder, the achievement of the conservation objectives stated for the MCZ.
- (2) For the purposes of subsection (1), a person does a prohibited act if the person—
- (a) intentionally or recklessly kills or injures any animal in an MCZ which is a protected feature of that MCZ,
 - (b) intentionally picks or collects, or intentionally or recklessly cuts, uproots or destroys, any plant in an MCZ which is a protected feature of that MCZ,
 - (c) intentionally or recklessly takes anything from an MCZ which is, or forms part of, a protected feature of that MCZ, or
 - (d) intentionally or recklessly destroys or damages any habitat or feature which is a protected feature of an MCZ.
- (3) For the purposes of determining whether anything done by a person in relation to a protected feature is a prohibited act for the purposes of subsection (1), it is immaterial whether the person knew, or ought to have known, that the feature was a protected feature.
- (4) A person who is guilty of an offence under this section is liable—

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- (a) on summary conviction, to [^{F5}a fine not exceeding £50,000][^{F5}a fine];
 - (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.
- (6) Proceedings for an offence under this section may be taken, and the offence may for all incidental purposes be treated as having been committed, in any part of the United Kingdom.

Textual Amendments

- F5** Words in s. 140(4)(a) substituted (E.W.) (12.3.2015) by [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 4 para. 43\(6\)](#) (with reg. 5(1))

Commencement Information

- I3** S. 140 partly in force; s. 140 in force for specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I4** S. 140 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), [art. 2\(b\)](#)

141 Exceptions to offences under section 139 or 140

- (1) A person is not guilty of an offence under section 139 or 140 if the act which is alleged to constitute the offence—
- (a) was done in accordance with section 125(2) by a public authority;
 - (b) was expressly authorised by an authorisation granted in accordance with section 126, or was necessarily incidental to such an act;
 - (c) was done in accordance with—
 - (i) a permit issued under section 129(5) [^{F6}129C(3), 134(4), 134C(3), 137A(6) or 137E(6)], or
 - (ii) a permit issued by the appropriate authority;
 - (d) was necessary in the interests of national security or the prevention or detection of crime, or was necessary for securing public health;
 - (e) was necessary for the purpose of securing the safety of any vessel, aircraft or marine installation;
 - (f) was done for the purpose of saving life.
- (2) Subsection (1)(e) does not apply where the necessity was due to the fault of the person or of some other person acting under the person's direction or control.
- (3) A person is not guilty of an offence under section 139 by reason of doing anything that is an offence under section 140.
- (4) It is a defence for a person who is charged with an offence under section 140 to show that—
- (a) the act which is alleged to constitute the offence was—
 - (i) an act done for the purpose of, and in the course of, sea fishing, or
 - (ii) an act done in connection with such an act,
 and

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- (b) the effect of the act on the protected feature in question could not reasonably have been avoided.
- (5) The Secretary of State may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (4).

^{F7}(6)

- (7) In this section—
“act” includes omission;

^{F8}
...
...

Textual Amendments

- F6** Words in s. 141(1)(c)(i) substituted (23.1.2021) by [Fisheries Act 2020 \(c. 22\)](#), s. 54(4)(d), **Sch. 10 para. 24** (with [Sch. 4 para. 31](#))
- F7** S. 141(6) omitted (31.12.2020) by virtue of [The Marine Environment \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1399\)](#), regs. 1, **2(5)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in s. 141(7) omitted (31.12.2020) by virtue of [The Marine Environment \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1399\)](#), regs. 1, **2(5)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I5** S. 141 partly in force; s. 141 in force for specified purposes at Royal Assent see s. 324(1)(c); s. 141 in force for further specified purposes at 12.1.2010 see s. 324(2)(b)(i)
- I6** S. 141 in force at 12.12.2014 in so far as not already in force by [S.I. 2014/3088](#), **art. 2(b)**

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 72A(2A) inserted by [2023 c. 55 s. 232\(2\)\(d\)](#)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by [2023 c. 55 s. 232\(2\)\(f\)\(i\)](#)
- s. 72A(6)(a) words inserted by [2023 c. 55 s. 232\(2\)\(f\)\(ii\)](#)
- s. 72A(6)(b) and word inserted by [2023 c. 55 s. 232\(2\)\(f\)\(iii\)](#)
- Sch. 6 para. 1(2)(da) inserted by [2023 c. 55 Sch. 8 para. 31\(2\)\(a\)](#)