



2013 CHAPTER 10

Part 3

Marine protection

Offences

Offence of contravening byelaws

32.—(1) It is an offence for a person to contravene any byelaws made under section 26 or 29.

(2) A person who is guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) 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 Northern Ireland.

Offence of damaging, etc. protected features of MCZ

33.—(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—

Changes to legislation: There are currently no known outstanding effects for the Marine Act (Northern Ireland) 2013, Cross Heading: Offences. (See end of Document for details)

- (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—

- (a) on summary conviction, to a fine not exceeding £50,000;
- (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 Northern Ireland.

Exceptions

34.—(1) A person is not guilty of an offence under section 32 or 33 if the act which is alleged to constitute the offence—

- (a) was done in accordance with section 22(2) by a public authority;
- (b) was expressly authorised by an authorisation granted in accordance with section 23, or was necessarily incidental to such an act;
- (c) was done in accordance with a permit issued by the Department (whether under section 26(5) or otherwise);
- (d) was necessary in the interests of 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.

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(3) A person is not guilty of an offence under section 32 by reason of doing anything that is an offence under section 33.

(4) It is a defence for a person who is charged with an offence under section 33 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

(b) the effect of the act on the protected feature in question could not reasonably have been avoided.

(5) The Department may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (4).

Changes to legislation:

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