



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 5

NATURE CONSERVATION

CHAPTER 1

MARINE CONSERVATION ZONES

Offences

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) or 134(4), 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.

Status: This is the original version (as it was originally enacted).

- (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
 - (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).
- (6) Until the coming into force of the first Order in Council made under section 41 (the exclusive economic zone), nothing in section 140 applies to anything done in relation to an MCZ lying beyond the seaward limits of the territorial sea by a person on a third country vessel.
- (7) In this section—
- “act” includes omission;
 - “third country vessel” means a vessel which—
 - (a) is flying the flag of, or is registered in, any State or territory (other than Gibraltar) which is not a member State, and
 - (b) is not registered in a member State.