



Marine (Scotland) Act 2010

2010 asp 5

PART 5

MARINE PROTECTION AND ENHANCEMENT: THE SCOTTISH MARINE PROTECTION AREA

Offences

97 Exceptions to offences under section 94, 95 or 96

- (1) A person is not guilty of an offence under section 94, 95, or 96 if the act which is alleged to constitute the offence—
 - (a) was an exercise of functions carried out in accordance with section 82(2) by a public authority,
 - (b) was expressly authorised by an authorisation granted by a public authority or was necessarily incidental to an act so authorised (and this paragraph is not disappplied in relation to the offence by virtue of section 85(4)(a)),
 - (c) was done in accordance with—
 - (i) a permit of the kind described in section 92(1), or
 - (ii) an authorisation of the kind described in section 92(3),
 - (d) was necessary—
 - (i) in the interests of national security,
 - (ii) in the interests of the prevention or detection of crime,
 - (iii) for securing public health.
- (2) It is a defence for a person who is charged with an offence under section 95 or 96 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 or (as the case may be) the marine historic asset in question could not have reasonably been avoided.
- (3) The Scottish Ministers may by order amend this section so as to remove, or restrict the application of, the defence provided by subsection (2).

Status: This is the original version (as it was originally enacted).

(4) For the purposes of this section, “act” includes omission.