



# Marine (Scotland) Act 2010

## 2010 asp 5

### PART 4

#### MARINE LICENSING

##### *Offences*

#### **40 Defences: action taken in an emergency**

- (1) It is a defence for a person charged with an offence under section 39(1) in relation to any activity to prove that—
  - (a) the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure, and
  - (b) the person took steps within a reasonable time to inform the Scottish Ministers of the matters set out in subsection (2).
- (2) The matters are—
  - (a) the fact that the activity was carried out,
  - (b) the locality and circumstances in which it was carried out, and
  - (c) any substances or objects concerned.
- (3) The defence provided by subsection (1) is not available to a person where—
  - (a) the court is not satisfied that the activity either—
    - (i) was necessary for any of the purposes mentioned in subsection (1) (a), or
    - (ii) was a reasonable step to take in the circumstances, or
  - (b) the necessity for the activity was due to the fault of the accused or a person acting under the accused's direction or control.