



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 4

#### MARINE LICENSING

### CHAPTER 3

#### ENFORCEMENT

#### *Offences*

#### **85 Breach of requirement for, or conditions of, a licence**

- (1) A person who—
  - (a) contravenes section 65(1), or
  - (b) fails to comply with any condition of a marine licence, commits an offence.
- (2) A person who is bound by a condition of a licence by virtue of section 71(5) is not to be taken as having failed to comply with the condition unless the requirements of subsection (3) are satisfied.
- (3) The requirements are that—
  - (a) the appropriate licensing authority has served the person with a notice under this subsection which specifies the condition together with a period (which must be a reasonable period, in all the circumstances of the case) within which the person must comply with the condition, and
  - (b) the person has failed to comply with the condition within that period.
- (4) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction, to a fine not exceeding £50,000;

- (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding two years or to both.

## **86 Action taken in an emergency**

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to prove that—
  - (a) the activity was carried out for the purpose of securing the safety of a vessel, aircraft or marine structure, or for the purpose of saving life, and
  - (b) the person took steps within a reasonable time to inform the appropriate licensing authority 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) A person does not have the defence provided by subsection (1) if the court is satisfied that the activity was neither—
  - (a) necessary for any purpose mentioned in subsection (1)(a), nor
  - (b) a reasonable step to take in the circumstances.
- (4) A person does not have the defence provided by subsection (1) if the court is satisfied that—
  - (a) the activity was necessary for one of those purposes, but
  - (b) the necessity was due to the fault of the person or of some other person acting under the person’s direction or control.

## **87 Electronic communications: emergency works**

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to prove that—
  - (a) for the purposes of paragraph 23 of the Electronic Communications Code (undertaker’s works), the person is the operator or a relevant undertaker, and
  - (b) the activity was carried out for the purpose of executing emergency works, within the meaning of that Code.
- (2) In this section “the Electronic Communications Code” means the code set out in Schedule 2 to the [Telecommunications Act 1984 \(c. 12\)](#).

## **88 Activity licensed by another State**

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to which subsection (2) applies to prove that subsections (3) and (4) are satisfied in respect of that activity.
- (2) This subsection applies to any activity which—
  - (a) falls within item 2, 5 or 12 in section 66(1), and
  - (b) is carried on outside the UK marine licensing area.
- (3) This subsection is satisfied if—

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- (a) in the case of an activity falling within item 2 in subsection (1) of section 66, the vessel, aircraft, marine structure or floating container (as the case may be) was loaded in a Convention State, or in the national or territorial waters of a Convention State, with the substances or objects deposited;
  - (b) in the case of an activity falling within item 5 in that subsection, the vessel scuttled was towed or propelled from a Convention State, or from the national or territorial waters of a Convention State, to the place where the scuttling was carried out;
  - (c) in the case of an activity falling within item 12 in that subsection, the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or objects incinerated.
- (4) This subsection is satisfied if the activity was carried on—
- (a) in pursuance of a licence issued by the responsible authority in the Convention State concerned, and
  - (b) in accordance with the provisions of that licence.
- (5) For the purposes of this section—
- “Convention State” means a state which is a party to the London Convention, the London Protocol or the OSPAR Convention;
- “the London Convention” means the Convention on the Prevention of Maritime Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;
- “the London Protocol” means the Protocol to the London Convention agreed at London in November 1996;
- “the OSPAR Convention” means the Convention for the Protection of the Marine Environment of the North-East Atlantic concluded at Paris in September 1992.
- (6) The references in subsection (5) to the London Convention, the London Protocol and the OSPAR Convention are to them as they have effect from time to time.
- (7) The Secretary of State may by order amend subsections (5) and (6) in such manner as the Secretary of State considers appropriate for the purpose of giving effect to any international agreement which has been ratified by the United Kingdom and which alters the provisions of, or replaces, those Conventions or that Protocol.

## **89 Information**

- (1) A person who, for any of the purposes set out in subsection (2),—
- (a) makes a statement which is false or misleading in a material particular, knowing the statement to be false or misleading,
  - (b) makes a statement which is false or misleading in a material particular, being reckless as to whether the statement is false or misleading, or
  - (c) intentionally fails to disclose any material particular,
- commits an offence.
- (2) The purposes are—
- (a) the purpose of procuring the issue, variation or transfer of a licence, or
  - (b) the purpose of complying with, or purporting to comply with, any obligation imposed by the provisions of this Part or the provisions of a licence.

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- (3) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to a fine.