
STATUTORY INSTRUMENTS

2005 No. 3117

The Offshore Installations (Safety Case) Regulations 2005

Defence

22.—(1) In any proceedings for an offence for a contravention of any of the provisions of regulations 19 to 21 it shall, subject to paragraphs (2) and (3), be a defence for the person charged to prove—

- (a) that the commission of the offence was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions, and exercised all due diligence, to avoid the commission of the offence.

(2) The person charged shall not, without the leave of the court, be entitled to rely on the defence in paragraph (1) unless, within a period ending 7 clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England and Wales; or
- (b) before the intermediate diet, where the proceedings are summary proceedings in Scotland; or
- (c) before the first diet, where the proceedings are solemn proceedings in Scotland,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) For the purpose of enabling the other person to be charged with and convicted of the offence by virtue of section 36 of the 1974 Act, a person who establishes a defence under this regulation shall nevertheless be treated for the purposes of that section as having committed the offence.