



Marine (Scotland) Act 2010

2010 asp 5

PART 4

MARINE LICENSING

Offences: supplementary provision

62 General defence of due diligence

- (1) In any proceedings for an offence under this Part, it is a defence for the person charged (“the accused”) to prove that the accused took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.
- (2) The defence provided by subsection (1) is to be taken to be established—
 - (a) if the accused—
 - (i) acted under an employer’s instructions,
 - (ii) did not know and had no reason to suppose that the acts done constituted a contravention of the provision in question, and
 - (iii) took all such steps as reasonably could be taken to ensure that no offence would be committed, or
 - (b) if the accused—
 - (i) acted in reliance on information supplied by another person,
 - (ii) did not know and had no reason to suppose that the information was false or misleading, and
 - (iii) took all such steps as reasonably could be taken to ensure that no offence would be committed.
- (3) Subsection (2) does not affect the generality of subsection (1).
- (4) If in any proceedings the defence provided by subsection (1) involves the allegation that the commission of the offence was due to—
 - (a) an act or default of another person (other than the giving of instructions to the accused by an employer), or
 - (b) reliance on information supplied by another person,

Status: This is the original version (as it was originally enacted).

the accused is not, without leave of the court, entitled to rely on the defence unless the requirement in subsection (5) is satisfied.

(5) The requirement is that—

- (a) at least 7 clear days before the hearing, and
- (b) if the accused has previously appeared before a court in connection with the alleged offence, within one month of the first such appearance,

the accused has served on the prosecutor a notice giving such information identifying or assisting in the identification of the other person as was then in the accused's possession.