



Reservoirs (Scotland) Act 2011

2011 asp 9

PART 1

RESERVOIRS

CHAPTER 5

CONSTRUCTION OR ALTERATION OF CONTROLLED RESERVOIRS

43 Defences: offences under section 42(1)(d) or (e)

It is a defence to a charge in proceedings under section 42(1)(d) or (e) for the person to show both—

- (a) that the failure to comply with the requirements concerned was as a result of an accident which could not reasonably have been foreseen or natural cause or force majeure which was exceptional and could not reasonably have been foreseen, and
- (b) that the person—
 - (i) took all practicable steps to prevent an uncontrolled release of water from the reservoir,
 - (ii) took all practicable steps as soon as was reasonably practicable to rectify the failure, and
 - (iii) provided particulars of the failure to SEPA as soon as practicable after the failure arose.