



Food and Environment Protection Act 1985

1985 CHAPTER 48

PART II

DEPOSITS IN THE SEA

Offences relating to licensing system etc.

9 Offences relating to licensing system.

- (1) Subject to subsections (3) [F1, (4)]F2 and (8)]below, a person who—
- (a) except in pursuance of a licence and in accordance with its provisions, does anything for which a licence is needed; or
 - (b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions,
- shall be guilty of an offence.
- (2) A person who for the purpose of procuring the issue of a licence, or in purporting to carry out any duty imposed on him by the provisions of a licence—
- (a) makes a statement which he knows to be false in a material particular;
 - (b) recklessly makes a statement which is false in a material particular; or
 - (c) intentionally fails to disclose any material particular,
- shall be guilty of an offence.
- (3) Subject to subsection (4) below, it shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation to prove—
- (a) that the operation was carried out for the purpose of securing the safety of a vessel, aircraft, hovercraft or marine structure or of saving life; and
 - (b) that he took steps within a reasonable time to inform one or other of the Ministers—
 - (i) of the operation;

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- (ii) of the locality and circumstances in which it took place; and
- (iii) of any substances or articles concerned.

(4) A person does not have the defence provided by subsection (3) above if the court is satisfied—

- (a) that the operation—
 - (i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; and
 - (ii) was not a reasonable step to take in the circumstances; or
- (b) that it was necessary for one of those purposes but the necessity was due to the fault of the defendant.

^{F3}(5)

^{F3}(6)

^{F3}(7)

[^{F4}(8) It shall be a defence for a person charged with an offence under subsection (1) in relation to any operation to prove that—

- (a) for the purposes of [^{F5}Part 10 of Schedule 3A of the Communications Act 2003 (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.

^{F6} ...]

Textual Amendments

- F1** Word in s. 9(1) substituted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 2(6)(a)** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)
- F2** Words in s. 9(1) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 6(2)** (with ss. 111, 323(6)); S.I. 2011/556, art. 3(2)(a)
- F3** S. 9(5)-(7) repealed (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), Sch. 8 para. 2(6)(b), **Sch. 22 Pt. 2** (with ss. 111, 323(6), Sch. 9 Pts. 3); S.I. 2011/556, art. 3(2)(a)(d)
- F4** S. 9(8) inserted (6.4.2011) by [Marine and Coastal Access Act 2009 \(c. 23\)](#), s. 324(3), **Sch. 8 para. 6(3)** (with ss. 111, 323(6)); S.I. 2011/556, art. 3(2)(a)
- F5** Words in s. 9(8)(a) substituted (28.12.2017) by [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 23(a)**; S.I. 2017/1286, reg. 2(d)
- F6** Words in s. 9(8) omitted (28.12.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(6), **Sch. 3 para. 23(b)**; S.I. 2017/1286, reg. 2(d)

Modifications etc. (not altering text)

- C1** S. 9 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I**, para. 4(1)(a) (with ss. 139(2), 143(2)); S.I. 1998/2789, **art. 2**

10 Power to take remedial action.

- (1) [^{F7}A licensing authority] may carry out any operation which appears to him to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed

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appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

- (2) If [^{F8}a licensing authority] carries out an operation under subsection (1) above, he may recover any expenses reasonably incurred by him in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to [the licensing authority] to be necessary or expedient to carry out the operation.

Textual Amendments

- F7** Words in s. 10(1) substituted (30.6.1999) by [S.I. 1999/1756](#), art. 2, **Sch. para. 10(8)(a)** (with art. 8); [S.I. 1998/3178](#)
- F8** Words in s. 10(2) substituted (30.6.1999) by [S.I. 1999/1756](#), art. 2, **Sch. para. 10(8)(b)** (with art. 8); [S.I. 1998/3178](#)
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Modifications etc. (not altering text)

- C2** S. 10 power to transfer functions conferred (1.12.1998) by 1998 c. 38, s. 22(1)(c)(5), **Sch. 3 Pt. I**, para. 4(1)(a) (with ss. 139(2), 143(2)); [S.I. 1998/2789](#), **art. 2**
S. 10 amended (1.7.1999) by [S.I. 1999/1750](#), art. 4, **Sch 3** (with art. 7); [S.I. 1998/3178](#)
- C3** S. 10 continued (S.) (6.4.2011) by [The Marine \(Scotland\) Act 2010 \(Transitional and Consequential Provisions\) Order 2011 \(S.S.I. 2011/202\)](#), arts. 1, 7
- C4** S. 10(1) modified (1.7.1999) by [S.I. 1999/672](#), art. 5, **Sch. 2**

Changes to legislation:

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