



Marine (Scotland) Act 2010

2010 asp 5

PART 4

MARINE LICENSING

Offences

40 Defences: action taken in an emergency

- (1) It is a defence for a person charged with an offence under section 39(1) in relation to any activity to prove that—
- (a) the activity was carried out for the purpose of saving life, or for the purpose of securing the safety of a vessel, aircraft or marine structure, and
 - (b) the person took steps within a reasonable time to inform the Scottish Ministers 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) The defence provided by subsection (1) is not available to a person where—
- (a) the court is not satisfied that the activity either—
 - (i) was necessary for any of the purposes mentioned in subsection (1) (a), or
 - (ii) was a reasonable step to take in the circumstances, or
 - (b) the necessity for the activity was due to the fault of the accused or a person acting under the accused's direction or control.

Modifications etc. (not altering text)

- C1** Ss. 39-42 applied (9.11.2020) by [The Marine Licensing \(Exempted Activities\) \(Scottish Inshore Region\) Amendment Order 2020 \(S.S.I. 2020/316\)](#), arts. 1, 12

Changes to legislation: There are currently no known outstanding effects for the Marine (Scotland) Act 2010, Section 40. (See end of Document for details)

Commencement Information

II S. 40 in force at 6.4.2011 by [S.S.I. 2011/58](#), **art. 3(a)**

Changes to legislation:

There are currently no known outstanding effects for the Marine (Scotland) Act 2010, Section 40.