



# Marine and Coastal Access Act 2009

## 2009 CHAPTER 23

### PART 4

#### MARINE LICENSING

### CHAPTER 5

#### SUPPLEMENTARY

*Offences: supplementary provision*

#### **109 General defence of due diligence**

- (1) In any proceedings for an offence under this Part, it is a defence for the person charged (“the defendant”) to prove that the defendant 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 if the defendant—
  - (a) acted under an employer's instructions,
  - (b) did not know and had no reason to suppose that the acts done constituted a contravention of the provision in question, and
  - (c) took all such steps as reasonably could be taken to ensure that no offence would be committed.
- (3) The defence provided by subsection (1) is to be taken to be established if the defendant—
  - (a) acted in reliance on information supplied by another person,
  - (b) did not know and had no reason to suppose that the information was false or misleading, and
  - (c) took all such steps as reasonably could be taken to ensure that no offence would be committed.

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*Status: Point in time view as at 07/09/2016.*

*Changes to legislation: Marine and Coastal Access Act 2009, Section 109 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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- (4) Subsections (2) and (3) do not affect the generality of subsection (1).
- (5) If in any case 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 defendant by an employer), or
  - (b) reliance on information supplied by another person,
- the defendant is not, without leave of the court, entitled to rely on that defence unless the requirement in subsection (6) is satisfied.
- (6) The requirement is that—
- (a) at least seven clear days before the hearing, and
  - (b) if the defendant has previously appeared before a court in connection with the alleged offence, within one month of the first such appearance,
- the defendant has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in the defendant's possession.

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**Commencement Information**

**II** S. 109 in force at 6.4.2011 by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

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