



Marine and Coastal Access Act 2009

2009 CHAPTER 23

PART 4

MARINE LICENSING

CHAPTER 3

ENFORCEMENT

Offences

88 Activity licensed by another State

- (1) It is a defence for a person charged with an offence under section 85(1) in relation to any activity to which subsection (2) applies to prove that subsections (3) and (4) are satisfied in respect of that activity.
- (2) This subsection applies to any activity which—
 - (a) falls within item 2, 5 or 12 in section 66(1), and
 - (b) is carried on outside the UK marine licensing area.
- (3) This subsection is satisfied if—
 - (a) in the case of an activity falling within item 2 in subsection (1) of section 66, the vessel, aircraft, marine structure or floating container (as the case may be) was loaded in a Convention State, or in the national or territorial waters of a Convention State, with the substances or objects deposited;
 - (b) in the case of an activity falling within item 5 in that subsection, the vessel scuttled was towed or propelled from a Convention State, or from the national or territorial waters of a Convention State, to the place where the scuttling was carried out;
 - (c) in the case of an activity falling within item 12 in that subsection, the vessel or marine structure on which the incineration took place was loaded in a

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Convention State or the national or territorial waters of a Convention State with the substances or objects incinerated.

- (4) This subsection is satisfied if the activity was carried on—
- (a) in pursuance of a licence issued by the responsible authority in the Convention State concerned, and
 - (b) in accordance with the provisions of that licence.
- (5) For the purposes of this section—
- “Convention State” means a state which is a party to the London Convention, the London Protocol or the OSPAR Convention;
- “the London Convention” means the Convention on the Prevention of Maritime Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;
- “the London Protocol” means the Protocol to the London Convention agreed at London in November 1996;
- “the OSPAR Convention” means the Convention for the Protection of the Marine Environment of the North-East Atlantic concluded at Paris in September 1992.
- (6) The references in subsection (5) to the London Convention, the London Protocol and the OSPAR Convention are to them as they have effect from time to time.
- (7) The Secretary of State may by order amend subsections (5) and (6) in such manner as the Secretary of State considers appropriate for the purpose of giving effect to any international agreement which has been ratified by the United Kingdom and which alters the provisions of, or replaces, those Conventions or that Protocol.

Commencement Information

- I1** S. 88 partly in force; s. 88 in force for specified purposes at Royal Assent see [s. 324\(1\)\(c\)](#)
- I2** S. 88 in force at 6.4.2011 in so far as not already in force by [S.I. 2011/556](#), [art. 3\(2\)\(a\)](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 72A(2A) inserted by [2023 c. 55 s. 232\(2\)\(d\)](#)
- s. 72A(6)(a) words in s. 72A(6) renumbered as s. 72A(6)(a) by [2023 c. 55 s. 232\(2\)\(f\)\(i\)](#)
- s. 72A(6)(a) words inserted by [2023 c. 55 s. 232\(2\)\(f\)\(ii\)](#)
- s. 72A(6)(b) and word inserted by [2023 c. 55 s. 232\(2\)\(f\)\(iii\)](#)
- Sch. 6 para. 1(2)(da) inserted by [2023 c. 55 Sch. 8 para. 31\(2\)\(a\)](#)