
STATUTORY INSTRUMENTS

1997 No. 1713

The Confined Spaces Regulations 1997

Defence in proceedings

7.—(1) In any proceedings for an offence for a contravention of regulation 5(3) of these Regulations it shall be a defence for the person charged to prove—

- (a) that the contravention was due to the act or default of another person not being one of his employees (hereinafter called “the other person”); and
- (b) that he took all reasonable precautions and exercised all due diligence to avoid the contravention.

(2) The person charged shall not, without leave of the court, be entitled to rely on the defence referred to in paragraph (1) above unless, within a period ending seven clear days—

- (a) before the hearing to determine mode of trial, where the proceedings are in England or Wales; or
- (b) before the trial, where the proceedings are in Scotland,

he has served on the prosecutor a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

(3) Where a contravention of the provision referred to in paragraph (1) above by any person is due to the act or default of some other person, that other person shall be guilty of the offence which would, but for any defence under this regulation available to the first-mentioned person, be constituted by the act or default.