

- (A) that neither the directors (if any) nor any person involved in the management of the defendant knew, or could reasonably be expected to have known, that the offence was to be or was being committed; or
  - (B) that the defendant took all reasonable steps to prevent the commission of the offence; and
- (b) the defendant proves that the defendant took all reasonable steps to remedy any effects of the act or omission giving rise to the offence.
- (3) If a person other than a natural person is convicted of an offence against this Act, a director of the defendant (if any), or a person involved in the management of the defendant, is guilty of the same offence if it is proved—
  - (a) that the act or omission that constituted the offence took place with his or her authority, permission, or consent; and
  - (b) that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

Section 340(1): replaced, on 20 August 1998, by section 22 of the Resource Management Amendment Act 1994 (1994 No 105).

Section 340(1)(a): amended, on 17 December 1997, by section 57(1) of the Resource Management Amendment Act 1997 (1997 No 104).

Section 340(2): replaced, on 1 October 2009, by section 140 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

Section 340(3): replaced, on 1 October 2009, by section 140 of the Resource Management (Simplifying and Streamlining) Amendment Act 2009 (2009 No 31).

### **341 Strict liability and defences**

- (1) In any prosecution for an offence of contravening or permitting a contravention of any of sections 9, 11, 12, 13, 14, and 15, it is not necessary to prove that the defendant intended to commit the offence.
- (2) Subject to subsection (3), it is a defence to prosecution of the kind referred to in subsection (1), if the defendant proves—
  - (a) that—
    - (i) the action or event to which the prosecution relates was necessary for the purposes of saving or protecting life or health, or preventing serious damage to property or avoiding an actual or likely adverse effect on the environment; and
    - (ii) the conduct of the defendant was reasonable in the circumstances; and
    - (iii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred; or

- (b) that the action or event to which the prosecution relates was due to an event beyond the control of the defendant, including natural disaster, mechanical failure, or sabotage, and in each case—
  - (i) the action or event could not reasonably have been foreseen or been provided against by the defendant; and
  - (ii) the effects of the action or event were adequately mitigated or remedied by the defendant after it occurred.
- (3) Except with the leave of the court, subsection (2) does not apply unless, within 7 days after the service of the summons or within such further time as the court may allow, the defendant delivers to the prosecutor a written notice—
  - (a) stating that he or she intends to rely on subsection (2); and
  - (b) specifying the facts that support his or her reliance on subsection (2).

Section 341(2)(b): amended, on 7 July 1993, by section 156 of the Resource Management Amendment Act 1993 (1993 No 65).

### **341A Liability and defences for dumping and storage of waste or other matter**

It is a defence to prosecution for an offence of contravening or permitting a contravention of section 15A if the defendant proves that the act or omission which is alleged to constitute the offence—

- (a) was necessary—
  - (i) to save or prevent danger to human life; or
  - (ii) to avert a serious threat to any ship, aircraft, or offshore installation; or
  - (iii) in the case of force majeure caused by stress of weather, to secure the safety of any ship, aircraft, or offshore installation; and
- (b) was a reasonable step to take in all the circumstances; and
- (c) was likely to result in less damage than would otherwise have occurred; and
- (d) was taken or omitted in such a way that the likelihood of damage to human or marine life was minimised.

Section 341A: inserted, on 20 August 1998, by section 23 of the Resource Management Amendment Act 1994 (1994 No 105).

### **341B Liability and defences for discharging harmful substances**

- (1) In any prosecution for an offence against section 338(1B) (which relates to the discharge of harmful substances, contaminants, or water, in breach of section 15B) it is not necessary to prove that the defendant intended to commit the offence.
- (2) It is a defence to prosecution for an offence against section 338(1B) if the defendant proves that—