



International Criminal Court (Scotland) Act 2001

2001 asp 13

PART 1

OFFENCES

Offences

5 Responsibility of military commanders and other superiors

- (1) This section applies in relation to—
 - (a) offences under this Part of this Act; and
 - (b) offences ancillary to such offences.
- (2) A military commander, or a person effectively acting as a military commander, shall be responsible for offences committed by forces under his effective command and control, or (as the case may be) his effective authority and control, as a result of his failure to exercise control properly over such forces where—
 - (a) he either knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such offences; and
 - (b) he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
- (3) With respect to superior and subordinate relationships not described in subsection (2) above, a superior shall be responsible for offences committed by subordinates under his effective authority and control, as a result of his failure to exercise control properly over such subordinates where—
 - (a) he either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such offences;
 - (b) the offences concerned activities that were within his effective responsibility and control; and

Status: This is the original version (as it was originally enacted).

- (c) he failed to take all necessary and reasonable measures within his power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.
- (4) A person responsible under this section for an offence shall be regarded as being art and part in the commission of the offence.
- (5) Nothing in this section shall be read as restricting or excluding—
 - (a) any liability of a commander or other superior apart from this section; or
 - (b) the liability of any person other than a commander or other superior.