

CRIMINAL JUSTICE AND LICENSING (SCOTLAND) ACT 2010

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3 - Criminal Procedure

Section 53 – Offences: liability of partners

258. Section 53 of the Act provides that where a partnership is guilty of a “corporate offence” that has been committed with the consent or connivance of a partner or attributable to the partner’s neglect that partner will also be guilty of the offence. “Corporate offences” are those where in similar circumstances statute provides for individual liability for directors of a body corporate.
259. The effect is to put partners of partnerships (including those who purport to be partners of partnerships) in the same position as directors of bodies corporate in relation to statutory criminal offences. Similar provision has already been made under the Limited Liability Partnerships (Scotland) Regulations 2001 in relation to partners of Limited Liability Partnerships, so these are excluded from the operation of section 53. As some statutes have already made provision for individual liability of partners, subsection (4) disapplies the new provisions where such provision has already been made.