



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 5

MISCELLANEOUS

Other miscellaneous police matters

158 Responsibilities in relation to the health and safety etc. of police

(1) In section 51A of the Health and Safety at Work etc. Act 1974 (c. 37) (application of Part 1 of that Act to police) after subsection (2) insert—

“(2A) For the purposes of this Part the relevant officer, as defined by subsection (2) (a) or (c) above, shall be treated as a corporation sole.

(2B) Where, in a case in which the relevant officer, as so defined, is guilty of an offence by virtue of this section, it is proved—

- (a) that the officer-holder personally consented to the commission of the offence,
- (b) that he personally connived in its commission, or
- (c) that the commission of the offence was attributable to personal neglect on his part,

the office-holder (as well as the corporation sole) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2C) In subsection (2B) above “the office-holder”, in relation to the relevant officer, means an individual who, at the time of the consent, connivance or neglect—

- (a) held the office or other position mentioned in subsection (2) above as the office or position of that officer; or
- (b) was for the time being responsible for exercising and performing the powers and duties of that office or position.

- (2D) The provisions mentioned in subsection (2E) below (which impose the same liability for unlawful conduct of constables on persons having their direction or control as would arise if the constables were employees of those persons) do not apply to any liability by virtue of this Part.
- (2E) Those provisions are—
- (a) section 39 of the Police (Scotland) Act 1967;
 - (b) section 88(1) of the Police Act 1996;
 - (c) section 97(9) of that Act;
 - (d) paragraph 7(1) of Schedule 8 to the Police Act 1997;
 - (e) paragraph 14(1) of Schedule 3 to the Criminal Justice and Police Act 2001;
 - (f) section 28 of the Serious Organised Crime and Police Act 2005.
- (2F) In the application of this section to Scotland—
- (a) subsection (2A) shall have effect as if for the words “corporation sole” there were substituted “distinct juristic person (that is to say, as a juristic person distinct from the individual who for the time being is the office-holder)”;
 - (b) subsection (2B) shall have effect as if for the words “corporation sole” there were substituted “juristic person”; and
 - (c) subsection (2C) shall have effect as if for the words “subsection (2B)” there were substituted “subsections (2A) and (2B)”.
- (2) For subsection (2) of each of the following sections of the Employment Rights Act 1996 (c. 18)—
- (a) section 49A (right of police officers not to suffer detriment in relation to health and safety issues), and
 - (b) section 134A (right of police officers not to be unfairly dismissed in relation to health and safety issues),
- substitute the subsection set out in subsection (3) of this section.
- (3) The subsection to be substituted is—
- “(2) In this section “the relevant officer”, in relation to—
- (a) a person holding the office of constable, or
 - (b) a person holding an appointment as a police cadet,
- means the person who under section 51A of the Health and Safety at Work etc. Act 1974 is to be treated as his employer for the purposes of Part 1 of that Act.”
- (4) The following provisions of the Police Reform Act 2002 (c. 30) (which relate to duties and rights in relation to the health and safety of police) cease to have effect—
- (a) section 95, and
 - (b) in Schedule 8, the reference to section 5 of the Police (Health and Safety) Act 1997 (c. 42).
- (5) The amendments made by subsections (1) to (3) have effect for the purposes of any proceedings in or before a court or tribunal that are commenced on or after the day on which this Act is passed as if the amendments had come into force on 1st July 1998.

- (6) For the purposes of proceedings commenced against a person in his capacity by virtue of this section as a corporation sole (or, in Scotland, as a distinct juristic person) anything done by or in relation to that person before the passing of this Act shall be deemed to have been done by or in relation to that person in that capacity.
- (7) No person shall be liable by virtue of section 51A(2B) of the Health and Safety at Work etc. Act 1974 (c. 37) in respect of anything occurring before the passing of this Act.