

SCHEDULE 2

Regulation 25(1)

Offences by bodies corporate etc. in England and Wales

1. In this Schedule, “offence” means an offence under these Regulations.

2. If an offence committed by a body corporate is shown—

- (1) to have been committed with the consent or connivance of an officer, or
- (2) to be attributable to any neglect on his part,

the officer as well as the body corporate is guilty of the offence and liable to be proceeded against and punished accordingly.

3. If the affairs of a body corporate are managed by its members, paragraph 2 applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

4. In paragraph 2, “officer”, in relation to a body corporate, means—

- (1) a director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body, or a person purporting to act in any such capacity, or
- (2) an individual who is a controller of the body.

5. If an offence committed by a partnership is shown—

- (1) to have been committed with the consent or connivance of a partner, or
- (2) to be attributable to any neglect on his part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

6. In paragraph 5 “partner” includes a person purporting to act as a partner.

7. If an offence committed by an unincorporated association (other than a partnership) is shown—

- (1) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
- (2) to be attributable to any neglect on the part of such an officer or member,

that officer or member as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

8. A fine imposed on an unincorporated association on its conviction for an offence is to be paid out of the funds of the association.

9. Proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).

10. Rules of court relating to the service of documents are to have effect as if the association were a body corporate.

11. In proceedings for an offence brought against an unincorporated association, section 33 of the Criminal Justice Act 1925(1) and Schedule 3 to the Magistrates' Courts Act 1980(2) (procedure) apply as they do in relation to a body corporate.

(1) 1925 c. 86; subsections (1) and (2) of section 33 were repealed by the Magistrates' Courts Act 1952 (c. 55), section 132 and Schedule 6; subsection (3) was amended by the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, part II, paragraph 19; subsection (4) was amended by the Courts Act 2003 (c. 39) section 109(1) and (3), Schedule 8, paragraph 71 and Schedule 10, and by the Magistrates Courts Act 1980 (c. 43) section 154 and Schedule 7, paragraph 5; subsection (5) was repealed by the Magistrates' Court Act 1952, section 132, Schedule 6.

(2) 1980 c. 43; sub-paragraph 2(a) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13, and was repealed by the Criminal Justice Act 2003 (c. 44), sections 41 and 332, Schedule 3, part

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

2, paragraph 51, sub-paragraphs (1), (13)(a), and Schedule 37, part 4 (with effect from a date to be appointed); paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13; paragraph 6 was amended by the Criminal Justice Act 2003, section 41, Schedule 3, part 2, paragraph 51, sub-paragraphs (1) and (13)(b) (with effect from a date to be appointed).