
STATUTORY INSTRUMENTS

2015 No. 1945

The Small and Medium Sized Business
(Credit Information) Regulations 2015

PART 6

Monitoring of compliance and enforcement

CHAPTER 6

Misleading the FCA

Further provisions relating to proceedings for offence

38.—(1) Proceedings for an offence under regulation 34 (misleading the FCA) alleged to have been committed by a partnership or other unincorporated association must be brought in the name of the partnership or association (and not in those of its members).

(2) A fine imposed on a partnership or unincorporated association on its conviction of an offence under regulation 34 is to be paid out of the funds of the partnership or association.

(3) Rules of court relating to the service of documents are to have effect as if a partnership or unincorporated association were a body corporate.

(4) In proceedings for an offence under regulation 34 brought against a partnership or unincorporated association—

- (a) section 33 (procedure on charge of offence against corporation) of the Criminal Justice Act 1925(1) and Schedule 3 to the Magistrates' Courts Act 1980(2) apply as they do in relation to a body corporate;
- (b) sections 70 and 143 (proceedings against organisations) of the Criminal Procedure (Scotland) Act 1995(3) apply;
- (c) section 18 (procedure on charge) of the Criminal Justice (Northern Ireland) Act 1945(4) and Schedule 4 (corporations) to the Magistrates' Courts (Northern Ireland) Order 1981(5) apply as they do in relation to a body corporate.

(5) Summary proceedings for an offence under regulation 34 may be taken—

- (a) against a body corporate or unincorporated association at any place at which it has a place of business;
- (b) against an individual at any place where that individual is for the time being.

(1) 1925 c.86. Section 33 is amended by the Magistrates' Courts Act 1952 (c.55), section 132 and Schedule 6, the Courts Act 1971 (c.23), Schedule 8, and the Courts Act 2003 (c.39), Schedule 8, paragraph 71 and Schedule 10.

(2) 1980 c.43. Schedule 3 is amended by the Criminal Justice Act 1991 (c.53), section 25(2) and Schedule 13, and the Criminal Justice Act 2003 (c.44), Schedule 3, paragraph 51 and Schedule 37, Part 4.

(3) 1995 c.46. Section 70 is amended by section 66 of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13. Section 143 is amended by section 67 of the Criminal Justice and Licensing (Scotland) Act 2010 asp 13, section 17 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 asp 6 and S.S.I. 2001/128.

(4) 1945 c.15.

(5) S.I. 1981/1675.

(6) Paragraph (5) does not affect any jurisdiction exercisable apart from this regulation.