



# Insurance Companies Act 1974

## 1974 CHAPTER 49

### PART V

#### SUPPLEMENTARY PROVISIONS

##### *Criminal proceedings*

#### **79 Criminal liability of directors**

- (1) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, chief executive, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) For the purposes of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

#### **80 Criminal proceedings against unincorporated bodies**

- (1) Proceedings for an offence alleged to have been committed under this Act by an unincorporated body shall be brought in the name of that body (and not in that of any of its members) and, for the purposes of any such proceedings, any rules of court relating to file service of documents shall have effect as if that body were a corporation.
- (2) A fine imposed on an unincorporated body on its conviction of an offence under this Act shall be paid out of the funds of that body.
- (3) Section 33 of the Criminal Justice Act 1925 and Schedule 2 to the Magistrates' Courts Act 1952 (procedure on charge of offence against a corporation) shall have effect in a case in which an unincorporated body is charged in England or Wales with an offence under this Act in like manner as they have effect in the case of a corporation so charged.

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*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

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- (4) In relation to any proceedings on indictment in Scotland for an offence alleged to have been committed under this Act by an unincorporated body, section 40 of the Criminal Justice (Scotland) Act 1949 (proceedings on indictment against bodies corporate) shall have effect as if that body were a body corporate.

## **81      Restriction on institution of prosecutions**

Proceedings in respect of an offence under this Act shall not, in England or Wales, be instituted except by or with the consent of the Secretary of State, the Industrial Assurance Commissioner or the Director of Public Prosecutions.

## **82      Summary proceedings**

- (1) Summary proceedings for any offence under this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a body corporate at any place at which the body has a place of business, and against any other person at any place at which he is for the time being.
- (2) Notwithstanding anything in section 104 of the Magistrates' Courts Act 1952, an information relating to an offence under this Act which is triable by a magistrates' court in England and Wales may be so tried if it is laid at any time within three years after the commission of the offence and within twelve months after the date on which evidence sufficient, in the opinion of the Director of Public Prosecutions, the Secretary of State or the Industrial Assurance Commissioner, as the case may be, to justify the proceedings comes to his knowledge.
- (3) Summary proceedings in Scotland for an offence under this Act shall not be commenced after the expiration of three years from the commission of the offence but, subject to the foregoing limitation and notwithstanding anything in section 23 of the Summary Jurisdiction (Scotland) Act 1954, such proceedings may be commenced at any time within twelve months after the date on which evidence sufficient in the opinion of the Lord Advocate to justify the proceedings comes to his knowledge or, where such evidence was reported to him by the Secretary of State or the Industrial Assurance Commissioner, within twelve months after the date on which it came to the knowledge of the Secretary of State or Commissioner; and subsection (2) of the said section 23 shall apply for the purpose of this subsection as it applies for the purpose of that section.
- (4) For the purposes of this section a certificate of the Director of Public Prosecutions, the Lord Advocate, the Secretary of State or the Industrial Assurance Commissioner, as the case may be, as to the date on which such evidence as aforesaid came to his knowledge shall be conclusive evidence.