



# Insurance Companies Act 1982

## 1982 CHAPTER 50

### PART V

#### SUPPLEMENTARY PROVISIONS

##### *Criminal proceedings*

#### **91 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.

#### **92 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 the 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) In a case in which an unincorporated body is charged with an offence under this Act—
  - (a) in England or Wales, section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure on charge of offence against a corporation);

- (b) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (procedure on charge of offence against a corporation)

shall have effect in like manner as they have effect in the case of a corporation so charged.

- (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 74 of the Criminal Procedure (Scotland) Act 1975 (proceedings on indictment against bodies corpora(e)) shall have effect as if that body were a body corporate.

### **93      Restriction on institution of prosecutions**

Proceedings in respect of an offence under this Act shall not be instituted—

- (a) in England or Wales, except by or with the consent of the Secretary of State, the Industrial Assurance Commissioner or the Director of Public Prosecutions,
- (b) in Northern Ireland, except by or with the consent of the Secretary of State, the Department of Commerce for Northern Ireland or the Director of Public Prosecutions for Northern Ireland.

### **94      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 127 of the Magistrates' Courts Act. 1980, 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.
- (4) Subject to the limitation in subsection (3) above and notwithstanding anything in section 331 of the Criminal Procedure (Scotland) Act 1975, the proceedings referred to in that subsection 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.
- (5) Subsection (3) of section 331 of the said Act of 1975 shall apply for the purposes of subsections (3) and (4) above as it applies for the purposes of that section.
- (6) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, a complaint relating to an offence under this Act which is triable by a court of summary jurisdiction in Northern Ireland may be so tried if it is made

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 for Northern Ireland, the Secretary of State or the Department of Commerce for Northern Ireland, as the case may be, to justify the proceedings comes to his or that Department's knowledge.

- (7) For the purposes of this section a certificate of the Director of Public Prosecutions, the Lord Advocate, the Director of Public Prosecutions for Northern Ireland, the Secretary of State, the Department of Commerce for Northern Ireland or the Industrial Assurance Commissioner, as the case may be, as to the date on which such evidence as aforesaid came to his, or that Department's, knowledge shall be conclusive evidence.