
STATUTORY INSTRUMENTS

2013 No. 233

**The Timber and Timber Products
(Placing on the Market) Regulations 2013**

PART 2

Offences

Offences

4. It is an offence to fail to comply with—
- (a) Article 4(1) of the Timber Regulation (prohibition on placing illegally harvested timber on the market);
 - (b) Article 4(2) of the Timber Regulation (obligation to exercise due diligence);
 - (c) Article 4(3) of the Timber Regulation (obligation to maintain and evaluate due diligence system);
 - (d) Article 5 of the Timber Regulation (traceability obligation);
 - (e) Article 5(1) of the Implementing Regulation (record-keeping obligation);
 - (f) regulation 10 (obstruction of an inspector); or
 - (g) a notice of remedial actions.

Commencement Information

II Reg. 4 in force at 3.3.2013, see [reg. 1\(2\)](#)

Due diligence defence

5.—(1) In proceedings for an offence under regulation 4(a) or (b), it is a defence for a person (“A”) to show that A made proper use of a due diligence system.

(2) A may not, without leave of the court, rely on the defence if it involves an allegation that the commission of the offence was due—

- (a) to the act or default of another (“B”), or
- (b) to reliance on information supplied by B,

unless A has served a notice on the person bringing the proceedings in accordance with paragraph (3).

(3) For the purposes of paragraph (2), the notice must be served—

- (a) in England, Wales or Northern Ireland, not less than seven clear days before the hearing of the proceedings;
- (b) in Scotland, in summary proceedings, not less than seven clear days before the trial diet and, in proceedings on indictment, at or before the first diet.

(4) The notice must give the information in A's possession which identifies or assists in identifying B.

(5) A may not rely on the defence by reason of reliance on information supplied by B unless A shows that it was reasonable in all the circumstances to have relied on the information, having regard in particular—

- (a) to the steps that A took and those which might reasonably have been taken for the purpose of verifying the information; and
- (b) to whether A had any reason to disbelieve the information.

Commencement Information

I2 Reg. 5 in force at 3.3.2013, see [reg. 1\(2\)](#)

Offences by bodies corporate, partnerships and unincorporated associations

6.—(1) Proceedings for an offence under these Regulations alleged to have been committed by a partnership or unincorporated association may be brought against the partnership or association in the name of the partnership or association.

(2) For the purposes of such proceedings—

- (a) rules of court relating to the service of documents have effect as if the partnership or association were a body corporate, and
- (b) the following provisions apply as they apply in relation to a body corporate—
 - (i) section 33 of the Criminal Justice Act 1925(1) (procedure on charge of offence against corporation) and Schedule 3 to the Magistrates' Courts Act 1980(2) (corporations), and
 - (ii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(3) (procedure on charge) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(4) (corporations).

(3) A fine imposed on a partnership or association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(4) If an offence under these Regulations committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer, or
- (b) to be attributable to the negligence of an officer,

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

(5) If an offence under these Regulations committed by a partnership is proved—

-
- (1) [1925 c. 86](#). Subsections (1), (2) and (5) 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 2, 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.
 - (2) [1980 c. 43](#). Paragraph 2(a) of Schedule 3 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 2, paragraph 51(1) and (13)(a), and Schedule 37, Part 4 (partly commenced by [S.I. 2012/1320](#) and [S.I. 2012/2574](#) and with full 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 repealed by the Criminal Justice Act 2003, section 41, Schedule 3, Part 2, paragraph 51(1) and (13)(b) (partly commenced by [S.I. 2012/1320](#) and [S.I. 2012/2574](#) and with full effect from a date to be appointed).
 - (3) [1945 c. 15 \(N.I.\)](#). Section 18 was amended by the Magistrates Courts Act [1964 \(c. 21\)](#) and by the Justice (Northern Ireland) Act [2002 \(c. 26\)](#), Schedule 12.
 - (4) [S.I. 1981/1675 \(N.I. 26\)](#).

(a) to have been committed with the consent or connivance of a partner, or
(b) to be attributable to the negligence of a partner,
that partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

(6) If an offence under these Regulations committed by an unincorporated association is proved—
(a) to have been committed with the consent or connivance of an officer of the association or member of its governing body, or
(b) to be attributable to the negligence of that 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.

(7) In paragraphs (4), (5) and (6), any reference to an officer, partner or member, as the case may be, includes any person purporting to act in such capacity.

Commencement Information

I3 Reg. 6 in force at 3.3.2013, see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Timber and Timber Products (Placing on the Market) Regulations 2013, PART 2.