
STATUTORY INSTRUMENTS

2015 No. 168

The Ozone-Depleting Substances Regulations 2015

PART 3

Offences, penalties and enforcement

Corporate offences

11.—(1) 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 any neglect on the part of an officer,

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

(2) In paragraph (1) “officer”, in relation to a body corporate, means—

- (a) a director, manager, secretary or other similar officer of the body; or
- (b) a person purporting to act in any such capacity.

(3) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with the member’s functions of management as it applies to an officer of a body corporate.

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

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

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

(5) For the purpose of proceedings for an offence alleged to have been committed by a partnership in Scotland, section 70 of the Criminal Procedure (Scotland) Act 1995⁽¹⁾ applies as it applies in relation to a body corporate.

(6) In paragraph (4) “partner” includes a person purporting to act as a partner.

(7) Subject to paragraph (10), 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 the name of any of its members.

(8) For the purposes of such proceedings—

- (a) rules of the court relating to service of documents have effect as if the association were a body corporate; and
- (b) the following provisions apply as they apply to a body corporate—

⁽¹⁾ 1995 c. 46. Section 70 was amended by section 28 of the Criminal Proceedings etc. (Reform)(Scotland) Act 2007 (2007 asp 6).

- (i) section 33 of the Criminal Justice Act 1925(2) and Schedule 3 to the Magistrates' Courts Act 1980(3);
- (ii) section 70 of the Criminal Procedure (Scotland) Act 1995; and
- (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(4) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(5).

(9) A fine imposed on an unincorporated association on its conviction for an offence must be paid out of the funds of the association.

(10) If an offence committed by an unincorporated association, other than a partnership, is proved—

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or
- (b) 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 is liable to be proceeded against and punished accordingly.

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- (2) 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 Courts Act 1952, section 132 and Schedule 6.
 - (3) 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 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).
 - (4) 1945 c. 15 (N.I.).
 - (5) S.I. 1981/1675 (N.I. 26).