

# NATURE CONSERVATION (SCOTLAND) ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 2 – Conservation and Enhancement of Natural Features**

##### *Chapter 4 - General and Supplementary*

##### *Section 47 Offences by bodies corporate etc.*

314. This section ensures that the directors and management of companies and other corporate bodies can be held personally responsible for offences carried out by the organisation, if that illegal act is committed with their consent or connivance, or where they have neglected to take action which would have prevented the illegal act. In such cases both the body corporate and the individuals responsible for directing and managing the affairs of that body (or who purport to act in that capacity) are liable.
315. Similar provisions are made in relation to the partners in a partnership and to the office bearers and members of an unincorporated association. In the particular case of a corporate body which is managed by its members, responsibility falls on each of its members, insofar as they have exercised or failed to exercise that management function. It should also be noted that, by virtue of subsection (1), an unincorporated association has legal personality for the purposes of a prosecution for an offence under Part 2 and it can be held liable in its own right.
316. Subsection (3) provides for any penalty imposed on a body corporate, a partnership or an unincorporated association to be recovered by civil diligence in accordance with section 221 of the [Criminal Procedure \(Scotland\) Act 1995 \(c.46\)](#).