



# Regulatory Reform (Scotland) Act 2014

## 2014 asp 3

### PART 3

#### ENVIRONMENTAL REGULATION

#### CHAPTER 4

#### MISCELLANEOUS

##### *Vicarious liability*

### **38 Vicarious liability for certain offences by employees and agents**

- (1) Subsection (2) applies where a person (“A”) commits a relevant offence while acting as the employee or agent of another person (“B”).
- (2) B also commits the relevant offence and is liable to be proceeded against and punished accordingly.
- (3) Where B is charged with a relevant offence by virtue of subsection (2), it is a defence for B to show—
  - (a) that B did not know that the relevant offence was being committed by A,
  - (b) that no reasonable person could have suspected that the relevant offence was being committed by A, and
  - (c) that B took all reasonable precautions and exercised all due diligence to prevent the offence being committed.
- (4) Proceedings may be taken against B in respect of the relevant offence whether or not proceedings are also taken against A in respect of that offence.

#### **Commencement Information**

**II** S. 38 in force at 30.6.2014 by [S.S.I. 2014/160](#), art. 2(1)(2), [Sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Regulatory Reform (Scotland) Act 2014, Section 38.