



Transport (Scotland) Act 2019

2019 asp 17

PART 10

MISCELLANEOUS AND GENERAL

General

125 Individual culpability where offending by an organisation

- (1) This section applies where—
- (a) an offence in this Act or any regulations made under it is committed by a relevant organisation, and
 - (b) the commission of the offence—
 - (i) involves consent or connivance on the part of a responsible individual, or
 - (ii) is attributable to neglect on the part of a responsible individual.
- (2) The responsible individual (as well as the relevant organisation) commits the offence.
- (3) For the purposes of this section—
- (a) “relevant organisation” means an organisation listed in the first column of the table in paragraph (c),
 - (b) “responsible individual” means, in relation to a relevant organisation—
 - (i) an individual falling within the corresponding entry in the second column of the table in paragraph (c), or
 - (ii) an individual purporting to act in the capacity of an individual falling within the corresponding entry,
 - (c) the table is as follows—

Relevant organisation	Individual
Company as mentioned in section 1 of the Companies Act 2006	Director, manager, secretary or other similar officer Member, where the company’s affairs are managed by its members

Status: This is the original version (as it was originally enacted).

Relevant organisation	Individual
Limited liability partnership	Member
Other partnership	Partner
Any other body or association	Individual who is concerned in the management or control of its affairs.

126 Crown application

- (1) Nothing in this Act or any regulations made under it makes the Crown criminally liable.
- (2) The Court of Session may, on an application by the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).
- (3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

127 Minor and consequential amendments and repeals

The schedule contains minor and consequential amendments and repeals.

128 Regulations

- (1) Any power of the Scottish Ministers to make regulations under this Act includes power to make—
 - (a) incidental, supplementary, consequential, transitional, transitory or saving provision,
 - (b) different provision for different purposes or areas.
- (2) Regulations under sections 6(4)(a), 6(4)(b), 6(4)(c), 7(4)(b), 52(1), 55(12), 71(5), 78(4) and 107(1) are subject to the affirmative procedure.
- (3) Regulations under section 8(1) or 59(1)—
 - (a) which create a criminal offence are subject to the affirmative procedure,
 - (b) otherwise, are subject to the negative procedure.
- (4) Regulations under section 129(1)—
 - (a) which add to, replace or omit any part of the text of an Act are subject to the affirmative procedure,
 - (b) otherwise, are subject to the negative procedure.
- (5) Otherwise (and subject to subsection (6)) regulations under this Act are subject to the negative procedure.
- (6) This section does not apply to regulations under section 130(2).

129 Ancillary provision

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for

the purposes of, in connection with or for giving full effect to this Act or any provision made under it.

- (2) Regulations under subsection (1) may modify any enactment (including this Act).

130 Commencement

- (1) This section and sections 128, 129 and 131 come into force on the day after Royal Assent.
- (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under subsection (2) may—
- (a) include transitional, transitory or saving provision,
 - (b) make different provision for—
 - (i) different purposes,
 - (ii) different areas.

131 Short title

The short title of this Act is the Transport (Scotland) Act 2019.