
STATUTORY INSTRUMENTS

2010 No. 265

The Mercury Export and Data (Enforcement) Regulations 2010

PART 3

Offences and penalties

Corporate, partnership and unincorporated association offences

7.—(1) If an offence under these Regulations committed by a body corporate is shown—

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

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

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts or defaults of a member in connection with that member's functions of management as if the member were an officer of the body corporate.

(3) If an offence committed by a partnership or Scottish partnership is shown—

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

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

(4) Where an offence committed by an unincorporated association, other than a partnership, is shown—

- (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,

the officer or member as well as the association is guilty of the offence and is liable to be proceeded against and punished accordingly.

(5) In this regulation—

- (a) "officer", in relation to a body corporate, means a director, manager, secretary or other similar officer of the body, or a person purporting to act in such capacity and in relation to an unincorporated association means a manager; and
- (b) "partner" includes a person purporting to act as a partner.

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

(7) For the purpose of proceedings in paragraph (6)—

- (a) rules of court relating to the service of documents have effect as if the partnership or unincorporated 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) and Schedule 3 to the Magistrates' Courts Act 1980(2);
 - (ii) section 70 of the Criminal Procedure (Scotland) Act 1995(3); or
 - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945(4) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(5).
- (8) A fine imposed on a partnership or unincorporated association on its conviction of an offence under these Regulations is to be paid out of the funds of the partnership or association.

(1) 1925 c. 86. Subsections (1), (2) and (5) 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 2, paragraph 19; subsection (4) was partially repealed 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) was amended by the Criminal Procedure and Investigations Act 1996 (c. 25), section 47, Schedule 1, paragraph 13; paragraph 5 was repealed by the Criminal Justice Act 1991 (c. 53), sections 25(2) and 101(2) and Schedule 13.

(3) 1995 c.46. Section 70 was last amended by section 28 of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (2007 asp 6).

(4) 1945 c.15 (N.I.). Section 18 has been repealed in part by the Magistrates' Courts (Northern Ireland) Act (c. 21), section 172 and Schedule 7 and amended by S.I. 1972/538 (N.I.1), article 10, and the Justice (Northern Ireland) Act 2002 (c. 26), Schedule 12, paragraph 1.

(5) S.I. 1981/1675 (N.I. 26).