



# Criminal Justice and Licensing (Scotland) Act 2010

2010 asp 13

## PART 9

### ALCOHOL LICENSING

#### 195 Liability for offences

- (1) The 2005 Act is amended as follows.
- (2) In each of the following provisions, the word “knowingly” is repealed—
  - (a) section 1(3)(b),
  - (b) section 103(1),
  - (c) section 106(2),
  - (d) section 107(1),
  - (e) section 118(1),
  - (f) section 120(2) and (3),
  - (g) section 121(1),
  - (h) section 127(4), and
  - (i) section 128(5).
- (3) After section 141 (offences by bodies corporate etc.) insert—

#### “141A Defence of due diligence for certain offences

- (1) It is a defence for a person charged with an offence to which this section applies to prove that the person—
  - (a) did not know that the offence was being committed, and
  - (b) exercised all due diligence to prevent the offence being committed.
- (2) This section applies to an offence under any of the following provisions of this Act—
  - section 1(3)(b),
  - section 103(1),

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*Status: This is the original version (as it was originally enacted).*

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section 106(2),  
section 107(1),  
section 118(1),  
section 120(2) or (3),  
section 121(1),  
section 127(4),  
section 128(5).

### **141B Vicarious liability of premises licence holders and interested parties**

- (1) Subsection (2) applies where, on or in relation to any licensed premises, a person commits an offence to which this section applies while acting as the employee or agent of—
  - (a) the holder of the premises licence, or
  - (b) an interested party.
- (2) The holder of the premises licence or, as the case may be, the interested party is also guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) It is a defence for a holder of a premises licence or an interested party charged with an offence to which this section applies by virtue of subsection (2) to prove that the holder of the licence or, as the case may be, the interested party—
  - (a) did not know that the offence was being committed by the employee or agent, and
  - (b) exercised all due diligence to prevent the offence being committed.
- (4) Proceedings may be taken against the holder of the premises licence or the interested party in respect of the offence whether or not proceedings are also taken against the employee or agent who committed the offence.
- (5) This section applies to an offence under any of the following provisions of this Act—
  - section 1(3),
  - section 15(5),
  - section 63(1),
  - section 97(7),
  - section 102(1),
  - section 103(1),
  - section 106(2),
  - section 107(1),
  - section 108(2) or (3),
  - section 113(1),
  - section 114,
  - section 115(2),
  - section 118(1),
  - section 119(1),
  - section 120(2),

section 121(1),  
section 138(5).”.