

SCHEDULES

SCHEDULE 1

SUPPLEMENTARY PROVISIONS IN CONNECTION WITH PROCEEDINGS FOR OFFENCES UNDER SECTIONS 17 AND 18(4)

Proceedings in England and Wales

- 1 (1) A person against whom proceedings are brought in England and Wales for an offence under section 17 or 18(4) of this Act is, upon information duly laid by him and on giving the prosecution not less than three clear days' notice of his intention, entitled to have any person to whose act or default he alleges that the contravention of that section was due brought before the court in the proceedings.
- (2) If, after the contravention has been proved, the original accused proves that the contravention was due to the act or default of that other person—
- (a) that other person may be convicted of the offence, and
 - (b) if the original accused further proves that he has used all due diligence to secure that section 17 or, as the case may be, 18(4) was complied with, he shall be acquitted of the offence.
- (3) Where an accused seeks to avail himself of the provisions of sub-paragraphs (1) and (2) above—
- (a) the prosecution, as well as the person whom the accused charges with the offence, has the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence, and
 - (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party to the proceedings.
- 2 (1) Where—
- (a) it appears that an offence under section 17 or 18(4) of this Act has been committed in respect of which proceedings might be taken in England and Wales against some person (referred to below in this paragraph as “the original offender”), and
 - (b) a person proposing to take proceedings in respect of the offence is reasonably satisfied—
 - (i) that the offence of which complaint is made was due to an act or default of some other person, being an act or default which took place in England and Wales, and
 - (ii) that the original offender could establish a defence under paragraph 1 of this Schedule,the proceedings may be taken against that other person without proceedings first being taken against the original offender.

Status: This is the original version (as it was originally enacted).

- (2) In any such proceedings the accused may be charged with, and on proof that the contravention was due to his act or default be convicted of, the offence with which the original offender might have been charged.
- 3 (1) Where proceedings are brought in England and Wales against a person (referred to below in this paragraph as “the accused”) in respect of a contravention of section 17 or 18(4) of this Act and it is proved—
- (a) that the contravention was due to the act or default of some other person, being an act or default which took place in Scotland, and
 - (b) that the accused used all due diligence to secure compliance with that section, the accused shall, subject to the provisions of this paragraph, be acquitted of the offence.
- (2) The accused is not entitled to be acquitted under this paragraph unless within seven days from the date of the service of the summons on him—
- (a) he has given notice in writing to the prosecution of his intention to rely upon the provisions of this paragraph, specifying the name and address of the person to whose act or default he alleges that the contravention was due, and
 - (b) he has sent a like notice to that person.
- (3) The person specified in a notice served under this paragraph is entitled to appear at the hearing and to give evidence and the court may, if it thinks fit, adjourn the hearing to enable him to do so.
- (4) Where it is proved that the contravention of section 17 or 18(4) of this Act was due to the act or default of some person other than the accused, being an act or default which took place in Scotland, the court must (whether or not the accused is acquitted) cause notice of the proceedings to be sent to the Secretary of State.