



# Finance Act 2003

## 2003 CHAPTER 14

### PART 3

#### TAXES AND DUTIES ON IMPORTATION AND EXPORTATION: PENALTIES

##### *The penalties*

#### **28 Liability of directors etc where body corporate liable to penalty for evasion**

- (1) Where it appears to the Commissioners—
  - (a) that a body corporate is liable to a penalty under section 25, and
  - (b) that the conduct giving rise to the penalty is, in whole or in part, attributable to the dishonesty of a person who is, or at the material time was, a director or managing officer of the body corporate (a “relevant officer”),the Commissioners may give a notice under this section to the body corporate (or its representative) and to the relevant officer (or his representative).
- (2) A notice under this section must state—
  - (a) the amount of the penalty referred to in subsection (1)(a) (the “basic penalty”), and
  - (b) that the Commissioners propose, in accordance with this section, to recover from the relevant officer such portion (which may be the whole) of the basic penalty as is specified in the notice.
- (3) If a notice is given under this section, this Part shall apply in relation to the relevant officer as if he were personally liable under section 25 to a penalty which corresponds to that portion of the basic penalty specified in the notice.
- (4) If a notice is given under this section—
  - (a) the amount which may be recovered from the body corporate under this Part is limited to so much (if any) of the basic penalty as is not recoverable from the relevant officer by virtue of subsection (3), and

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*Status: This is the original version (as it was originally enacted).*

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- (b) the body corporate is to be treated as discharged from liability for so much of the basic penalty as is so recoverable from the relevant officer.
- (5) In this section “managing officer”, in relation to a body corporate, means—
  - (a) a manager, secretary or other similar officer of the body corporate, or
  - (b) a person purporting to act in any such capacity or as a director.
- (6) Where the affairs of a body corporate are managed by its members, this section applies in relation to the conduct of a member in connection with his functions of management as if he were a director of the body corporate.