

SCHEDULE

DEFENCES AND ENFORCEMENT

PART 1

PROVISIONS AS TO DEFENCES

Defences

1.—(1) Subject to sub-paragraphs (2) to (4), in proceedings against any person for any offence under these Regulations it shall be a defence for that person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.

(2) Where in any proceedings ^{F1}... against any person for such an offence the defence provided by sub-paragraph (1) above involves an allegation that the commission of the offence was due to—

- (a) the act or default of another; or
- (b) reliance on information given by another,

that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than seven clear days before the hearing of the proceedings (or, in Scotland the trial diet), he has served a notice under sub-paragraph (3) on the person bringing the proceedings.

(3) A notice under this sub-paragraph shall give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person [^{F2}who is the subject of the proceedings].

(4) A person shall not be entitled to rely on the defence provided by sub-paragraph (1) by reason of his reliance on information supplied by another, unless he shows that it was reasonable in all the circumstances for him to have relied on the information, having regard in particular to —

- (a) the steps which he took, and those which might reasonably have been taken, for the purpose of verifying the information; and
- (b) whether he had any reason to disbelieve the information.

Textual Amendments

- F1** Words in Sch. para. 1(2) omitted (1.2.2006) by virtue of [The Biofuel \(Labelling\) \(Amendment\) Regulations 2005 \(S.I. 2005/3355\)](#), regs. 1, **2(2)**
- F2** Words in Sch. para. 1(3) substituted (1.2.2006) by [The Biofuel \(Labelling\) \(Amendment\) Regulations 2005 \(S.I. 2005/3355\)](#), regs. 1, **2(3)**

Liability of persons other than principal offender

2.—(1) An employee or agent contravenes these Regulations if as a result of his act he causes the sale or offer for sale in contravention of [^{F3}regulation 3(2) or (3)] whether or not proceedings are taken against his employer or principal.

(2) Where a body corporate is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Changes to legislation: *There are currently no known outstanding effects for the The Biofuel (Labelling) Regulations 2004, PART 1. (See end of Document for details)*

(3) Where the affairs of a body corporate are managed by its members, sub-paragraph (2) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(4) Where a Scottish partnership is guilty of an offence under these Regulations (including where it is so guilty by virtue of sub-paragraph (1)) in respect of any act or default which is shown to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner in the partnership, both he and the partnership, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Textual Amendments

F3 Words in Sch. para. 2(1) substituted (8.1.2010) by [The Biofuel \(Labelling\) \(Amendment\) Regulations 2009 \(S.I. 2009/3277\)](#), **regs. 1, 4**

Changes to legislation:

There are currently no known outstanding effects for the The Biofuel (Labelling) Regulations 2004, PART 1.