

332. Prosecution of corporations and members of associations.-(1) For the purpose of imposing upon a corporate body criminal liability for any offence, whether under any law or at common law-

- (a) any act performed, with or without a particular intent, by or on instructions or with permission, express or implied, given by a director or servant of that corporate body; and
- (b) the omission, with or without a particular intent, of any act which ought to have been but was not performed by or on instructions given by a director or servant of that corporate body,

in the exercise of his powers or in the performance of his duties as such director or servant or in furthering or endeavouring to further the interests of that corporate body, shall be deemed to have been performed (and with the same intent, if any) by that corporate body or, as the case may be, to have been an omission (and with the same intent, if any) on the part of that corporate body.

(2) In any prosecution against a corporate body, a director or servant of that corporate body shall be cited, as representative of that corporate body, as the offender, and thereupon the person so cited may, as such representative, be dealt with as if he were the person accused of having committed the offence in question: Provided that-

- (a) if the said person pleads guilty, other than by way of admitting guilt under [section 57](#), the plea shall not be valid unless the corporate body authorized him to plead guilty;
- (b) if at any stage of the proceedings the said person ceases to be a director or servant of that corporate body or absconds or is unable to attend, the court in question may, at the request of the prosecutor, from time to time substitute for the said person any other person who is a director or servant of the said corporate body at the time of the said substitution, and thereupon the proceedings shall continue as if no substitution had taken place;
- (c) if the said person, as representing the corporate body, is convicted, the court convicting him shall not impose upon him in his representative capacity any punishment, whether direct or as an alternative, other than a fine, even if the relevant law makes no provision for the imposition of a fine in respect of the offence in question, and such fine shall be payable by the corporate body and may be recovered by attachment and sale of property of the corporate body in terms of [section 288](#);
- (d) the citation of a director or servant of a corporate body as aforesaid, to represent that corporate body in any prosecution instituted against it, shall not exempt that director or servant from prosecution for that offence in terms of [subsection \(5\)](#).

(3) In criminal proceedings against a corporate body, any record which was made or kept by a director, servant or agent of the corporate body within the scope of his activities as such director, servant or agent, or any document which was at any time in the custody or under the control of any such director, servant or agent within the scope of his activities as such director, servant or agent, shall be admissible in evidence against the accused.

(4) For the purposes of [subsection \(3\)](#) any record made or kept by a director, servant or agent of a corporate body or any document which was at any time in his custody or under his control, shall be presumed to have been made or kept by him or to have been in his custody or under his control within the scope of his activities as such director, servant or agent, unless the contrary is proved.

(5) When an offence has been committed, whether by the performance of any act or by the failure to perform any act, for which any corporate body is or was liable to prosecution, any person who was, at the time of the commission of the offence, a director or servant of the corporate body shall be deemed to be guilty of the said offence, unless it is proved that he did not take part in the commission of the offence and that he could not have prevented it, and shall be liable to prosecution therefor, either jointly with the corporate body or apart therefrom, and shall on conviction be personally liable to punishment therefor.

(6) In criminal proceedings against a director or servant of a corporate body in respect of an offence-

- (a) any evidence which would be or was admissible against that corporate body in a prosecution for that offence, shall be admissible against the accused;
- (b) whether or not such corporate body is or was liable to prosecution for the said offence, any document, memorandum, book or record which was drawn up, entered up or kept in the ordinary course of business of that corporate body or which was at any time in the custody or under the control of any director, servant or agent, of such corporate body, in his capacity as director, servant or agent, shall be *prima facie* proof of its contents and admissible in evidence against the accused, unless he is able to prove that at all material times he had no knowledge of the said document, memorandum, book or record, in so far as its contents are relevant to the offence charged, and was in no way party to the drawing up of such document or memorandum or the making of any relevant entries in such book or record.

(7) When a member of an association of persons, other than a corporate body, has, in carrying on the business or affairs of that association or in furthering or in endeavouring to further its interests, committed an offence, whether by the performance of any act or by the failure to perform any act, any person who was, at the time of the commission of the offence, a member of that association, shall be deemed to be guilty of the said offence, unless it is proved that he did not take part in the commission of the offence and that he could not have prevented it: Provided that if the business or affairs of the association are governed or controlled by a committee or other similar governing body, the provisions of this subsection shall not apply to any person who was not at the time of the commission of the offence a member of that committee or other body.

(8) In any proceedings against a member of an association of persons in respect of an offence mentioned in [subsection \(7\)](#) any record which was made or kept by any member or servant or agent of the association within the scope of his activities as such member, servant or agent, or any document which was at any time in the custody or under the control of any such member, servant or agent within the scope of his activities as such member, servant or agent, shall be admissible in evidence against the accused.

(9) For the purposes of [subsection \(8\)](#) any record made or kept by a member or servant or agent of an association, or any document which was at any time in his custody or under his control, shall be presumed to have been made or kept by him or to have been in his custody or under his control within the scope of his activities as such member or servant or agent, unless the contrary is proved.

(10) In this section the word "director" in relation to a corporate body means any person who controls or governs that corporate body or who is a member of a body or group of persons which controls or governs that corporate body or, where there is no such body or group, who is a member of that corporate body.

(11) The provisions of this section shall be additional to and not in substitution for any other law which provides for a prosecution against corporate bodies or their directors or servants or against associations of persons or their members.

(12) Where a summons under this Act is to be served on a corporate body, it shall be served on the director or servant referred to in [subsection \(2\)](#) and in the manner referred to in [section 54 \(2\)](#).