

3. Prosecution Procedure for an Offence Committed by Body Corporate in particular the Liability of the Directors of a Body Corporate

A company will have imputed to it the acts and state of mind of those of its directors and managers who represent its “directing mind and will” (Lennard’s Carrying Co. v. Asiatic Petroleum Co. [1915] A.C. 705). A director who committed an offence can make the body corporate liable because his act can be imputed to the company.

If a company committed an offence under the Public Health (Animals and Birds)(Chemical Residues) Regulation, Chapter 139, other directors and senior managers will not be prosecuted or guilty automatically. If the offence was committed without that director’s or officer’s consent or connivance and he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, the director or officer will not be prosecuted.

A company, being not a person, cannot do any act itself. It must do the act through a person. Generally, the act of the director will be imputed to the company. The company will have committed the offence. Under section 21 of the Regulation, other directors will not be guilty of the offence if the offence was committed without their consent or connivance and they exercised all such diligence to prevent the commission of the offence as they ought to have exercised.