



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART II

REGULATED AND PROHIBITED ACTIVITIES

Offences

23 Contravention of the general prohibition [^{F1}or section 20(1) or (1A)].

- (1) A person who contravenes the general prohibition is guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- [^{F2}(1A) An authorised person (“A”) is guilty of an offence if A carries on a credit-related regulated activity in the United Kingdom, or purports to do so, otherwise than in accordance with permission—
- (a) given to that person under Part 4A, or
 - (b) resulting from any other provision of this Act.
- (1B) In this Act “credit-related regulated activity” means a regulated activity of a kind designated by the Treasury by order.
- (1C) The Treasury may designate a regulated activity under subsection (1B) only if the activity involves a person—
- (a) entering into or administering an agreement under which the person provides another person with credit,
 - (b) exercising or being able to exercise the rights of the lender under an agreement under which another person provides a third party with credit, or
 - (c) taking steps to procure payment of debts due under an agreement under which another person is provided with credit.

Status: Point in time view as at 01/12/2020.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Offences is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (1D) But a regulated activity may not be designated under subsection (1B) if the agreement in question is one under which the obligation of the borrower is secured on land.
- (1E) “Credit” includes any cash loan or other financial accommodation.
- (1F) A person guilty of an offence under subsection (1A) is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding the applicable maximum term or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or a fine, or both.
- (1G) The “applicable maximum term” is—
- (a) in England and Wales, 12 months (or 6 months, if the offence was committed before the commencement of [^{F3} paragraph 24(2) of Schedule 22 to the Sentencing Act 2020]);
 - (b) in Scotland, 12 months;
 - (c) in Northern Ireland, 6 months.]
- (2) In this Act “an authorisation offence” means an offence under this section.
- (3) In proceedings for an authorisation offence it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- [^{F4}(4) Subsection (1A) is subject to section 39(1D).
- (5) No proceedings may be brought against a person in respect of an offence under subsection (1A) in a case where either regulator has taken action under section 205, 206 or 206A in relation to the alleged contravention within section 20(1) or (1A).]

Textual Amendments

- F1** Words in s. 23 heading inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 3\(4\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F2** S. 23(1A)-(1G) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 3\(2\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F3** Words in s. 23(1G)(a) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 443\(1\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2
- F4** S. 23(4)(5) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 3\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

[^{F5}23A Parliamentary control in relation to certain orders under section 23

- (1) This section applies to the first order made under section 23(1B).
- (2) This section also applies to any subsequent order made under section 23(1B) which contains a statement by the Treasury that, in their opinion, the effect (or one of the effects) of the proposed order would be that an activity would become a credit-related regulated activity.
- (3) An order to which this section applies may not be made unless a draft of the order has been laid before Parliament and approved by a resolution of each House.]

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Textual Amendments

- F5** S. 23A inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 9 para. 4](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

24 False claims to be authorised or exempt.

- (1) A person who is neither an authorised person nor, in relation to the regulated activity in question, an exempt person is guilty of an offence if he—
 - (a) describes himself (in whatever terms) as an authorised person;
 - (b) describes himself (in whatever terms) as an exempt person in relation to the regulated activity; or
 - (c) behaves, or otherwise holds himself out, in a manner which indicates (or which is reasonably likely to be understood as indicating) that he is—
 - (i) an authorised person; or
 - (ii) an exempt person in relation to the regulated activity.
- (2) In proceedings for an offence under this section it is a defence for the accused to show that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale, or both.
- (4) [^{F6}But where the conduct constituting the offence involved or included the public display of any material, the maximum fine for the offence is level 5 on the standard scale multiplied by the number of days for which the display continued.]

Textual Amendments

- F6** S. 24(4) omitted (E.W.) (12.3.2015) by virtue of [The Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(Fines on Summary Conviction\) Regulations 2015 \(S.I. 2015/664\)](#), reg. 1(1), [Sch. 5 para. 7](#) (with reg. 5(1))

25 Contravention of section 21.

- (1) A person who contravenes section 21(1) is guilty of an offence and liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (2) In proceedings for an offence under this section it is a defence for the accused to show—
 - (a) that he believed on reasonable grounds that the content of the communication was prepared, or approved for the purposes of section 21, by an authorised person; or
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

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Modifications etc. (not altering text)

- C1** S. 25 applied (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), regs. 1, **52(2)(3)**
- C2** S. 25(2)(a) modified (31.10.2001) by [S.I. 2001/3374](#), art. 1, **Sch. para. 6**
- C3** S. 25(2)(a) modified (31.10.2004) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004 \(S.I. 2004/2615\)](#), arts. 1(2)(b), 5, **Sch. para. 6**
- C4** S. 25(2)(a) modified (14.1.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(General Insurance Intermediaries\) Order 2004 \(S.I. 2004/3351\)](#), arts. 1(2)(b), 5, **Sch. para. 6**

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