



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXVII

OFFENCES

Institution of proceedings

401 Proceedings for offences

- (1) In this section “offence” means an offence under this Act or subordinate legislation made under this Act.
- (2) Proceedings for an offence may be instituted in England and Wales only—
 - (a) by the Authority or the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions.
- (3) Proceedings for an offence may be instituted in Northern Ireland only—
 - (a) by the Authority or the Secretary of State; or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) Except in Scotland, proceedings for an offence under section 203 may also be instituted by the Director General of Fair Trading.
- (5) In exercising its power to institute proceedings for an offence, the Authority must comply with any conditions or restrictions imposed in writing by the Treasury.
- (6) Conditions or restrictions may be imposed under subsection (5) in relation to—
 - (a) proceedings generally; or
 - (b) such proceedings, or categories of proceedings, as the Treasury may direct.

402 Power of the Authority to institute proceedings for certain other offences

- (1) Except in Scotland, the Authority may institute proceedings for an offence under—

- (a) Part V of the Criminal Justice Act 1993 (insider dealing); or
 - (b) prescribed regulations relating to money laundering.
- (2) In exercising its power to institute proceedings for any such offence, the Authority must comply with any conditions or restrictions imposed in writing by the Treasury.
- (3) Conditions or restrictions may be imposed under subsection (2) in relation to—
- (a) proceedings generally; or
 - (b) such proceedings, or categories of proceedings, as the Treasury may direct.

403 Jurisdiction and procedure in respect of offences

- (1) A fine imposed on an unincorporated association on its conviction of an offence is to be paid out of the funds of the association.
- (2) Proceedings for an offence alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (3) Rules of court relating to the service of documents are to have effect as if the association were a body corporate.
- (4) In proceedings for an offence brought against an unincorporated association—
- (a) section 33 of the Criminal Justice Act 1925 and Schedule 3 to the Magistrates' Courts Act 1980 (procedure) apply as they do in relation to a body corporate;
 - (b) section 70 of the Criminal Procedure (Scotland) Act 1995 (procedure) applies as if the association were a body corporate;
 - (c) section 18 of the Criminal Justice (Northern Ireland) Act 1945 and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (procedure) apply as they do in relation to a body corporate.
- (5) Summary proceedings for an offence may be taken—
- (a) against a body corporate or unincorporated association at any place at which it has a place of business;
 - (b) against an individual at any place where he is for the time being.
- (6) Subsection (5) does not affect any jurisdiction exercisable apart from this section.
- (7) “Offence” means an offence under this Act.