



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXVII

#### OFFENCES

##### *Institution of proceedings*

#### **401 Proceedings for offences.**

[<sup>F1</sup>(1) In this section “offence” means—

- (a) an offence under this Act,
- (b) an offence under subordinate legislation made under this Act, or
- (c) an offence under Part 7 of the Financial Services Act 2012 (offences relating to financial services).]

(2) Proceedings for an offence may be instituted in England and Wales only—

- (a) by the [<sup>F2</sup>appropriate regulator] 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 [<sup>F3</sup>appropriate regulator] or the Secretary of State; or
- (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.

[<sup>F4</sup>(3A) For the purposes of subsections (2)(a) and (3)(a), the PRA is the “appropriate regulator” in respect of each of the following offences—

- (a) an offence under section 55P(10) where the contravention is of a requirement imposed by the PRA;
- (b) an offence under section 56(4) where the prohibition order is made by the PRA;
- (c) an offence under section 177(3) where the investigation is being, or is likely to be, conducted on behalf of the PRA;

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- (d) an offence under section 177(4) where the requirement is imposed by the PRA;
- (e) an offence under section 177(6) where the warrant is issued as a result of information on oath given by the PRA or a person appointed by the PRA to conduct an investigation on its behalf;
- (f) an offence under section 191F(1) where the notice should have been given to the PRA;
- (g) an offence under any of section 191F(2) to [<sup>F5</sup>(4) and (5) to] (7) where the notice, approval or information was given to or by the PRA;
- (h) an offence under section 366(3), unless the activity of effecting or carrying out long-term contracts of insurance is not to any extent a PRA-regulated activity;
- (i) an offence under section 398(1) where the information was given to the PRA.

[ For the purposes of subsections (2)(a) and (3)(a), the Bank of England is the <sup>F6</sup>(3AB) “appropriate regulator” in respect of an offence under section 191F(4A).]

(3B) For the purposes of subsections (2)(a) and (3)(a), the FCA is the “appropriate regulator” in respect of any other offence.]

<sup>F7</sup>(4) . . . . .

(5) In exercising its power to institute proceedings for an offence, the [<sup>F8</sup>appropriate regulator] 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.

#### Textual Amendments

- F1** S. 401(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 9 para. 38(2)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F2** Words in s. 401(2)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 9 para. 38(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F3** Words in s. 401(3)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 9 para. 38(3)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F4** S. 401(3A)(3B) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 9 para. 38(4)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F5** Words in s. 401(3A)(g) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **33(6)(a)**
- F6** S. 401(3AB) inserted (16.12.2016) by [The Bank Recovery and Resolution Order 2016 \(S.I. 2016/1239\)](#), arts. 1(2), **33(6)(b)**
- F7** S. 401(4) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(14)**
- F8** Words in s. 401(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 9 para. 38(5)** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

- C1** Pt. 27 applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services Act 2012 \(Consumer Credit\) Order 2013 \(S.I. 2013/1882\)](#), arts. 1(1), **3(12)**

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- C2** Pt. 27 applied (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2013 (S.I. 2013/1881), arts. 1(2)(6), **50(3)**
- C3** Pt. 27 applied (with modifications) (31.12.2020) by The Transparency of Securities Financing Transactions and of Reuse (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/542), regs. 1, **38** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- C4** Pt. 27 applied (with modifications) (31.12.2020) by The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2019 (S.I. 2019/335), regs. 1(1), **77** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- C5** S. 401 applied (1.12.2001) by S.I. 1995/1537, **reg. 23(6)** (as amended (1.12.2001) by S.I. 2001/3649, **arts. 1, 509(g)**)
- C6** S. 401 amended (1.12.2001) by S.I. 2001/2657, **arts. 1(1), 10(8), 11(8), 13(1)(3)** (which was revoked (8.10.2001) by S.I. 2001/3083, **arts. 1(2), 23**); S.I. 2001/3538, **art. 2(1)**  
S. 401 amended (1.12.2001) by S.I. 2001/3083, **arts. 1(2), 10(8), 11(8), 13(1)**; S.I. 2001/3538, **art. 2(1)**  
S. 401 modified (1.12.2001) by S.I. 2001/3646, **arts. 1(1), 12(2), 13(3)**
- C7** S. 401 applied by Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27), s. 15A(7) (as substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), arts. 2(2), 3(1), **Sch. 1 para. 232(2)** (with arts. 6, 11, 12))
- C8** S. 401 applied (with modifications) (7.6.2010) by The Credit Rating Agencies Regulations 2010 (S.I. 2010/906), **reg. 27**
- C9** S. 401 applied (with modifications) (1.4.2013) by The Financial Services Act 2012 (Transitional Provisions) (Enforcement) Order 2013 (S.I. 2013/441), arts. 1(1), **34(2)**
- C10** S. 401 applied (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **57** (with regs. 52-58)
- C11** S. 401 applied (with modifications) (18.9.2016) by The Payment Accounts Regulations 2015 (S.I. 2015/2038), reg. 1(2)(b), **Sch. 7 para. 6**
- C12** S. 401 applied (with modifications) (1.1.2018) by The Packaged Retail and Insurance-based Investment Products Regulations 2017 (S.I. 2017/1127), reg. 1, **Sch. 1 para. 7(3)**
- C13** S. 401 applied (with modifications) (14.11.2018) by The Central Counterparties (Amendment, etc., and Transitional Provision) (EU Exit) Regulations 2018 (S.I. 2018/1184), regs. 1(3), **24**
- C14** S. 401 applied (with modifications) (1.1.2019) by The Securitisation Regulations 2018 (S.I. 2018/1288), reg. 1, **Sch. 1 para. 8(4)** (with Sch. 1 paras. 13, 14)
- C15** S. 401 applied (with modifications) (30.9.2020) by The Equivalence Determinations for Financial Services (Amendment etc.) (EU Exit) Regulations 2020 (S.I. 2020/1055), regs. 1(2), **6(1)(2)(5)**
- C16** S. 401 applied (31.12.2020) by The Credit Rating Agencies (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/266), regs. 1(3), **23** (with savings in S.I. 2019/680, reg. 11); 2020 c. 1, Sch. 5 para. 1(1)
- C17** S. 401 applied (with modifications) (31.5.2021) by The Civil Liability Act 2018 (Financial Conduct Authority) (Whiplash) Regulations 2021 (S.I. 2021/594), regs. 1, **2(9)(b)**
- C18** S. 401 applied (with modifications) (30.1.2024 for specified purposes) by The Securitisation Regulations 2024 (S.I. 2024/102), reg. 2(1)(e)(2), **Sch. 1 para. 13(3)** (with reg. 52(3), Sch. 3)
- C19** S. 401(2)(3)(5)(6) applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 38(2)**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(ia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to legislation.gov.uk. Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))