

Status: Point in time view as at 03/09/2001. This version of this cross heading contains provisions that are not valid for this point in time.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Breach of short selling rules etc is up to date with all changes known to be in force on or before 30 May 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)



Financial Services and Markets Act 2000

2000 CHAPTER 8

[^{F1}PART 8A U.K.]

SHORT SELLING

VALID FROM 08/06/2010

[^{F1}Breach of short selling rules etc

Textual Amendments

F1 Pt. 8A inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), ss. 8, 26(2)(b)

131G Power to impose penalty or issue censure **U.K.**

- (1) This section applies if the Authority is satisfied that a person has contravened—
 - (a) any provision of short selling rules; or
 - (b) any requirement imposed on the person under section 131E or 131F.
- (2) The Authority may impose a penalty of such amount as it considers appropriate on—
 - (a) the person who contravened the provision or requirement; or
 - (b) any person who was knowingly concerned in the contravention.
- (3) It may, instead of imposing a penalty on a person, publish a statement censuring the person.
- (4) The Authority may not take action against a person under this section after the end of the limitation period unless, before the end of that period, it has given a warning notice to the person under section 131H.
- (5) “The limitation period” means the period of three years beginning with the first day on which the Authority knew of the contravention.

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- (6) For this purpose the Authority is to be treated as knowing of a contravention if it has information from which the contravention can reasonably be inferred.

131H Procedure and right to refer to Tribunal U.K.

- (1) If the Authority proposes to take action against a person under section 131G, it must give the person a warning notice.
- (2) A warning notice about a proposal to impose a penalty must state the amount of the penalty.
- (3) A warning notice about a proposal to publish a statement must set out the terms of the statement.
- (4) If the Authority decides to take action against a person under section 131G, it must give the person a decision notice.
- (5) A decision notice about the imposition of a penalty must state the amount of the penalty.
- (6) A decision notice about the publication of a statement must set out the terms of the statement.
- (7) If the Authority decides to take action against a person under section 131G, the person may refer the matter to the Tribunal.

131I Duty on publication of statement U.K.

After a statement under section 131G(3) is published, the Authority must send a copy of the statement to—

- (a) the person in respect of whom it is made; and
- (b) any person to whom a copy of the decision notice was given under section 393(4).

131J Imposition of penalties under section 131G: statement of policy U.K.

- (1) The Authority must prepare and issue a statement of its policy with respect to—
 - (a) the imposition of penalties under section 131G; and
 - (b) the amount of penalties under that section.
- (2) The Authority's policy in determining what the amount of a penalty should be must include having regard to—
 - (a) the seriousness of the contravention;
 - (b) the extent to which the contravention was deliberate or reckless; and
 - (c) whether the person on whom the penalty is to be imposed is an individual.
- (3) The Authority may at any time alter or replace a statement issued under this section.
- (4) If a statement issued under this section is altered or replaced, the Authority must issue the altered or replaced statement.
- (5) The Authority must, without delay, give the Treasury a copy of any statement which it publishes under this section.

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- (6) A statement issued under this section must be published by the Authority in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (7) The Authority may charge a reasonable fee for providing a person with a copy of the statement.
- (8) In exercising, or deciding whether to exercise, a power under section 131G in the case of any particular contravention, the Authority must have regard to any statement of policy published under this section and in force at a time when the contravention occurred.

131K Statement of policy: procedure **U.K.**

- (1) Before issuing a statement under section 131J, the Authority must publish a draft of the proposed statement in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (2) The draft must be accompanied by notice that representations about the proposal may be made to the Authority within a specified time.
- (3) Before issuing the proposed statement, the Authority must have regard to any representations made to it in accordance with subsection (2).
- (4) If the Authority issues the proposed statement it must publish an account, in general terms, of—
 - (a) the representations made to it in accordance with subsection (2); and
 - (b) its response to them.
- (5) If the statement differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant, the Authority must (in addition to complying with subsection (4)) publish details of the difference.
- (6) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).
- (7) This section also applies to a proposal to alter or replace a statement.]

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