



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXVII

OFFENCES

Institution of proceedings

VALID FROM 18/06/2001

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.

Status: Point in time view as at 25/02/2001. 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: Institution of proceedings is up to date with all changes known to be in force on or before 01 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)

Modifications etc. (not altering text)

- C1** 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)**)
- C2** S. 401 amended (1.12.2001) by S.I. 2001/2657, **arts. 1(1), 10(8), 11(8), 13(1)(3)** (which was revoked (8.10.2001) by S.I. 2001/3083, **arts. 1(2), 23**); S.I. 2001/3538, **art. 2(1)**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)**

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 ^{M1}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.

Commencement Information

- II** S. 402 wholly in force at 1.12.2001; s. 402 not in force at Royal Assent see s. 431(2); s. 402(1)(b) in force for certain purposes at 25.2.2001 by S.I. 2001/516, **art. 2(b), Sch. Pt. 2**; s. 402 in force for specified purposes at 19.10.2001 by S.I. 2001/3436, **art. 2**; s. 402 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Marginal Citations

- M1** 1993 c. 36.

VALID FROM 18/06/2001

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—

Status: Point in time view as at 25/02/2001. 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: Institution of proceedings is up to date with all changes known to be in force on or before 01 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)

- (a) section 33 of the ^{M2}Criminal Justice Act 1925 and Schedule 3 to the ^{M3}Magistrates' Courts Act 1980 (procedure) apply as they do in relation to a body corporate;
 - (b) section 70 of the ^{M4}Criminal Procedure (Scotland) Act 1995 (procedure) applies as if the association were a body corporate;
 - (c) section 18 of the ^{M5}Criminal Justice (Northern Ireland) Act 1945 and Schedule 4 to the ^{M6}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.

Modifications etc. (not altering text)

- C3** S. 403 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)**)
- C4** S. 403 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. 403 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. 403 modified (1.12.2001) by S.I. 2001/3646, **arts. 1(1), 12(2), 13(3)**
S. 403 applied (3.9.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/1228, **regs. 1(2)(b) (c), 82** (with **reg. 1(2)(3)**); S.I. 2001/2632, **art. 2(2), Sch. Pt. 2**; S.I. 2001/3538, **art. 2(1)**
- C5** S. 403 applied (N.I.) (1.11.2004) by Open-Ended Investment Companies Regulations (Northern Ireland) 2004 (S.R. 2004/335), **regs. 1(1)(b), 81** (with **reg. 1(2)**)
- C6** S. 403 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**))
- C7** S. 403 applied (7.6.2010) by The Credit Rating Agencies Regulations 2010 (S.I. 2010/906), **reg. 28**

Marginal Citations

- M2** 1925 c. 86.
- M3** 1980 c. 43.
- M4** 1995 c. 46.
- M5** 1945 c. 15 (N.I.)
- M6** S.I. 1981/1675

Status:

Point in time view as at 25/02/2001. 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: Institution of proceedings is up to date with all changes known to be in force on or before 01 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.