

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice Act 1993, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 53(4).

SPECIAL DEFENCES

Market makers

- 1 (1) An individual is not guilty of insider dealing by virtue of dealing in securities or encouraging another person to deal if he shows that he acted in good faith in the course of—
- (a) his business as a market maker, or
 - (b) his employment in the business of a market maker.
- (2) A market maker is a person who—
- (a) holds himself out at all normal times in compliance with the rules of a regulated market or an approved organisation as willing to acquire or dispose of securities; and
 - (b) is recognised as doing so under those rules.
- (3) In this paragraph “approved organisation” means an international securities self-regulating organisation approved [^{F1}by the Treasury under any relevant order under section 22 of the Financial Services and Markets Act 2000].

Textual Amendments

F1 Words in Sch. 1 para. 1(3) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1, 341\(2\)](#)

Market information

- 2 (1) An individual is not guilty of insider dealing by virtue of dealing in securities or encouraging another person to deal if he shows that—
- (a) the information which he had as an insider was market information; and
 - (b) it was reasonable for an individual in his position to have acted as he did despite having that information as an insider at the time.
- (2) In determining whether it is reasonable for an individual to do any act despite having market information at the time, there shall, in particular, be taken into account—
- (a) the content of the information;
 - (b) the circumstances in which he first had the information and in what capacity; and
 - (c) the capacity in which he now acts.
- 3 An individual is not guilty of insider dealing by virtue of dealing in securities or encouraging another person to deal if he shows—
- (a) that he acted—

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- (i) in connection with an acquisition or disposal which was under consideration or the subject of negotiation, or in the course of a series of such acquisitions or disposals; and
- (ii) with a view to facilitating the accomplishment of the acquisition or disposal or the series of acquisitions or disposals; and
- (b) that the information which he had as an insider was market information arising directly out of his involvement in the acquisition or disposal or series of acquisitions or disposals.

4 For the purposes of paragraphs 2 and 3 market information is information consisting of one or more of the following facts—

- (a) that securities of a particular kind have been or are to be acquired or disposed of, or that their acquisition or disposal is under consideration or the subject of negotiation;
- (b) that securities of a particular kind have not been or are not to be acquired or disposed of;
- (c) the number of securities acquired or disposed of or to be acquired or disposed of or whose acquisition or disposal is under consideration or the subject of negotiation;
- (d) the price (or range of prices) at which securities have been or are to be acquired or disposed of or the price (or range of prices) at which securities whose acquisition or disposal is under consideration or the subject of negotiation may be acquired or disposed of;
- (e) the identity of the persons involved or likely to be involved in any capacity in an acquisition or disposal.

[^{F2}Buy-back programmes and stabilisation

Textual Amendments

F2 Sch. 1 para. 5 and cross-heading substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **11**

5. [^{F3}(1)] An individual is not guilty of insider dealing by virtue of dealing in securities or encouraging another person to deal if he shows that he acted in conformity with—
- (a) Article 5 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation)[^{F4}, as that Article has effect at the time mentioned in sub-paragraph (2),][^{F5}and—
 - (i) each EU regulation, originally made under that Article before that time, which is [^{F6}assimilated direct] legislation; and
 - (ii) all subordinate legislation (within the meaning of the Interpretation Act 1978) made under that Article on or after IP completion day;]
 - (b) rules made under section 137Q(1) of the Financial Services and Markets Act 2000.]

[^{F7}(2) The time is the beginning of the day on which the Market Abuse (Amendment) (EU Exit) Regulations 2018 are made.]

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Textual Amendments

- F3** Sch. 1 para. 5 renumbered as Sch. 1 para. 5(1) (19.2.2019) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(2), **2(a)**
- F4** Words in Sch. 1 para. 5(1)(a) inserted (19.2.2019) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(2), **2(b)(i)**
- F5** Words in Sch. 1 para. 5(1)(a) substituted (31.12.2020) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(3), **4** (as amended by S.I. 2020/1301, regs. 1, **3**, **Sch. para. 17(a)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F6** Words in Sch. 1 para. 5(1)(a)(i) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 33**
- F7** Sch. 1 para. 5(2) inserted (19.2.2019) by [The Market Abuse \(Amendment\) \(EU Exit\) Regulations 2019 \(S.I. 2019/310\)](#), regs. 1(2), **2(c)**

- [^{F8}6** An individual (“A”) is not guilty of insider dealing by virtue of dealing, or encouraging another person to deal, in securities through a trading venue in Gibraltar if A shows that A acted in conformity with—
- (a) the following as they have effect in Gibraltar law—
 - (i) Article 5 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation), and
 - (ii) each EU regulation originally made under that Article, and
 - (b) all other applicable Gibraltar law (if any).

Textual Amendments

- F8** Sch. 1 paras. 6-8 inserted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) \(No. 3\) Regulations 2019 \(S.I. 2019/1390\)](#), regs. 1(5), 2; 2020 c. 1, Sch. 5 para. 1(1)

- 7 An individual (“A”) is not guilty of insider dealing by virtue of dealing, or encouraging another person to deal, in securities through a trading venue in an EEA State if A shows that A acted in conformity with—
- (a) the following as they apply in the EEA State—
 - (i) Article 5 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation), and
 - (ii) each EU regulation made under that Article, and
 - (b) all other applicable law of the EEA State (if any).

Textual Amendments

- F8** Sch. 1 paras. 6-8 inserted (31.12.2020) by [The Financial Services \(Miscellaneous\) \(Amendment\) \(EU Exit\) \(No. 3\) Regulations 2019 \(S.I. 2019/1390\)](#), regs. 1(5), 2; 2020 c. 1, Sch. 5 para. 1(1)

- 8 For the purposes of paragraphs 6 and 7 “trading venue” has the meaning given by Article 2(1)(16) of Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, as substituted by the Markets in Financial Instruments (Amendment) (EU Exit) Regulations 2018 (S.I. 2018/1403).]

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