



# Company Securities (Insider Dealing) Act 1985

## 1985 CHAPTER 8

An Act to consolidate the enactments relating to insider dealing in company securities. [11th March 1985]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *Regulation of insider dealing*

#### **1 Prohibition on stock exchange deals by insiders, etc.**

- (1) Subject to section 3, an individual who is, or at any time in the preceding 6 months has been, knowingly connected with a company shall not deal on a recognised stock exchange in securities of that company if he has information which—
  - (a) he holds by virtue of being connected with the company,
  - (b) it would be reasonable to expect a person so connected, and in the position by virtue of which he is so connected, not to disclose except for the proper performance of the functions attaching to that position, and
  - (c) he knows is unpublished price sensitive information in relation to those securities.
- (2) Subject to section 3, an individual who is, or at any time in the preceding 6 months has been, knowingly connected with a company shall not deal on a recognised stock exchange in securities of any other company if he has information which—
  - (a) he holds by virtue of being connected with the first company,
  - (b) it would be reasonable to expect a person so connected, and in the position by virtue of which he is so connected, not to disclose except for the proper performance of the functions attaching to that position,

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- (c) he knows is unpublished price sensitive information in relation to those securities of that other company, and
  - (d) relates to any transaction (actual or contemplated) involving both the first company and that other company, or involving one of them and securities of the other, or to the fact that any such transaction is no longer contemplated.
- (3) The next subsection applies where—
- (a) an individual has information which he knowingly obtained (directly or indirectly) from another individual who—
    - (i) is connected with a particular company, or was at any time in the 6 months preceding the obtaining of the information so connected, and
    - (ii) the former individual knows or has reasonable cause to believe held the information by virtue of being so connected, and
  - (b) the former individual knows or has reasonable cause to believe that, because of the latter's connection and position, it would be reasonable to expect him not to disclose the information except for the proper performance of the functions attaching to that position.
- (4) Subject to section 3, the former individual in that case—
- (a) shall not himself deal on a recognised stock exchange in securities of that company if he knows that the information is unpublished price sensitive information in relation to those securities, and
  - (b) shall not himself deal on a recognised stock exchange in securities of any other company if he knows that the information is unpublished price sensitive information in relation to those securities and it relates to any transaction (actual or contemplated) involving the first company and the other company, or involving one of them and securities of the other, or to the fact that any such transaction is no longer contemplated.
- (5) Subject to section 3, where an individual is contemplating, or has contemplated, making (whether with or without another person) a take-over offer for a company in a particular capacity, that individual shall not deal on a recognised stock exchange in securities of that company in another capacity if he knows that information that the offer is contemplated, or is no longer contemplated, is unpublished price sensitive information in relation to those securities.
- (6) Subject to section 3, where an individual has knowingly obtained (directly or indirectly), from an individual to whom subsection (5) applies, information that the offer referred to in that subsection is being contemplated or is no longer contemplated, the former individual shall not himself deal on a recognised stock exchange in securities of that company if he knows that the information is unpublished price sensitive information in relation to those securities.
- (7) Subject to section 3, an individual who is for the time being prohibited by any provision of this section from dealing on a recognised stock exchange in any securities shall not counsel or procure any other person to deal in those securities, knowing or having reasonable cause to believe that that person would deal in them on a recognised stock exchange.
- (8) Subject to section 3, an individual who is for the time being prohibited as above mentioned from dealing on a recognised stock exchange in any securities by reason of his having any information, shall not communicate that information to any other person if he knows or has reasonable cause to believe that that or some other person

will make use of the information for the purpose of dealing, or of counselling or procuring any other person to deal, on a recognised stock exchange in those securities.

## **2 Abuse of information obtained in official capacity**

- (1) This section applies to any information which—
  - (a) is held by a Crown servant or former Crown servant by virtue of his position or former position as a Crown servant, or is knowingly obtained by an individual (directly or indirectly) from a Crown servant or former Crown servant who he knows or has reasonable cause to believe held the information by virtue of any such position,
  - (b) it would be reasonable to expect an individual in the position of the Crown servant or former position of the former Crown servant not to disclose except for the proper performance of the functions attaching to that position, and
  - (c) the individual holding it knows is unpublished price sensitive information in relation to securities of a particular company ("relevant securities").
- (2) This section applies to a Crown servant or former Crown servant holding information to which this section applies and to any individual who knowingly obtained any such information (directly or indirectly) from a Crown servant or former Crown servant who that individual knows or has reasonable cause to believe held the information by virtue of his position or former position as a Crown servant.
- (3) Subject to section 3, an individual to whom this section applies—
  - (a) shall not deal on a recognised stock exchange in any relevant securities,
  - (b) shall not counsel or procure any other person to deal in any such securities, knowing or having reasonable cause to believe that that other person would deal in them on a recognised stock exchange, and
  - (c) shall not communicate to any other person the information held or (as the case may be) obtained by him as mentioned in subsection (2) if he knows or has reasonable cause to believe that that or some other person will make use of the information for the purpose of dealing, or of counselling or procuring any other person to deal, on a recognised stock exchange in any such securities.

## **3 Actions not prohibited by ss. 1, 2**

- (1) Sections 1 and 2 do not prohibit an individual by reason of his having any information from—
  - (a) doing any particular thing otherwise than with a view to the making of a profit or the avoidance of a loss (whether for himself or another person) by the use of that information;
  - (b) entering into a transaction in the course of the exercise in good faith of his functions as liquidator, receiver or trustee in bankruptcy; or
  - (c) doing any particular thing if the information—
    - (i) was obtained by him in the course of a business of a jobber in which he was engaged or employed, and
    - (ii) was of a description which it would be reasonable to expect him to obtain in the ordinary course of that business,and he does that thing in good faith in the course of that business.

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" Jobber " means an individual, partnership or company dealing in securities on a recognised stock exchange and recognised by the Council of The Stock Exchange as carrying on the business of a jobber.

- (2) An individual is not, by reason only of his having information relating to any particular transaction, prohibited—
- (a) by section 1(2), (4)(b), (5) or (6) from dealing on a recognised stock exchange in any securities, or
  - (b) by section 1(7) or (8) from doing any other thing in relation to securities which he is prohibited from dealing in by any of the provisions mentioned in paragraph (a), or
  - (c) by section 2 from doing anything,
- if he does that thing in order to facilitate the completion or carrying out of the transaction.

#### **4 Off-market deals in advertised securities**

Subject to section 6, sections 1 to 3 apply in relation to—

- (a) dealing otherwise than on a recognised stock exchange in the advertised securities of any company—
  - (i) through an off-market dealer who is making a market in those securities, in the knowledge that he is an off-market dealer, that he is making a market in those securities and that the securities are advertised securities, or
  - (ii) as an off-market dealer who is making a market in those securities or as an officer, employee or agent of such a dealer acting in the course of the dealer's business;
- (b) counselling or procuring a person to deal in advertised securities in the knowledge or with reasonable cause to believe that he would deal in them as mentioned in paragraph (a);
- (c) communicating any information in the knowledge or with reasonable cause to believe that it would be used for such dealing or for such counselling or procuring,

as they apply in relation to dealing in securities on a recognised stock exchange and to counselling or procuring or communicating any information in connection with such dealing.

#### **5 Restriction on promoting off-market deals abroad**

- (1) An individual who, by reason of his having information, is for the time being prohibited by any provision of section 1 or 2 from dealing in any securities shall not—
- (a) counsel or procure any other person to deal in those securities in the knowledge or with reasonable cause to believe that that person would deal in the securities outside Great Britain on any stock exchange other than a recognised stock exchange, or
  - (b) communicate that information to any other person in the knowledge or with reasonable cause to believe that that or some other person will make use of the information for the purpose of dealing, or of counselling or procuring any other person to deal, in the securities outside Great Britain on any stock exchange other than a recognised stock exchange.

- (2) Subsection (1) does not prohibit an individual by reason of his having any information from acting as mentioned in any of paragraphs (a) to (c) of section 3(1).
- (3) An individual is not, by reason only of having information relating to a particular transaction, prohibited by any provision of this section from doing anything if he does that thing in order to facilitate the completion or carrying out of the transaction.

## **6 International bonds**

- (1) Section 1 does not by virtue of section 4 or 5 prohibit an individual from doing anything in relation to a debenture, or a right to subscribe for, call for or make delivery of a debenture, if—
  - (a) that thing is done by him in good faith in connection with an international bond issue—
    - (i) not later than 3 months after the issue date, or
    - (ii) in a case where the international bond issue is not proceeded with, before the decision is taken not to proceed with the issue,and he is an issue manager for that issue or is an officer, employee or agent of an issue manager for that issue, or
  - (b) he is or was an issue manager for an international bond issue who is making a market in that debenture or right, or is an officer, employee or agent of such an issue manager, and that thing is done by him in good faith as a person making a market in that debenture or right or as an officer, employee or agent of such a person,and in either case the unpublished price sensitive information by virtue of which section 1 would (but for this section) apply in relation to that thing is information which he holds by virtue of his being (or having been) such an issue manager or an officer, employee or agent of such an issue manager, and is information which it would be reasonable to expect him to have obtained as an issue manager, or as such officer, employee or agent.
- (2) Where an individual holds unpublished price sensitive information in relation to any securities but by virtue of subsection (1) of this section he is not prohibited by section 1 from doing anything in relation to those securities, he is also not prohibited (by virtue of his holding that information) by section 5 from doing any other thing in relation to those securities.
- (3) The Secretary of State may by regulations made by statutory instrument make provision—
  - (a) extending the exemptions conferred by subsection (1) or (2) (or both) for things done in relation to other advertised securities or other advertised securities of any specified class;
  - (b) amending or disapplying sub-paragraph (i) or (ii) (or both) of subsection (1) (a) in relation to an international bond issue or an international bond issue of a specified class.
- (4) Regulations under subsection (3)—
  - (a) may make different provision for different cases or classes of case and may contain such incidental and supplementary provisions as the Secretary of State may think fit,

- (b) shall not be made unless a draft of the instrument containing them has been laid before Parliament and approved by a resolution of each House.

## **7 Trustees and personal representatives**

- (1) Where a trustee or personal representative or, where a trustee or personal representative is a body corporate, an individual acting on behalf of that trustee or personal representative who, apart from paragraph (a) of section 3(1) or, as the case may be, subsection (2) of section 5, would be prohibited by any of sections 1 to 5 from dealing, or counselling or procuring any other person to deal, in any securities deals in those securities or counsels or procures any other person to deal in them, he is presumed to have acted with propriety if he acted on the advice of a person who—
  - (a) appeared to him to be an appropriate person from whom to seek such advice, and
  - (b) did not appear to him to be prohibited by section 1, 2, 4 or 5 from dealing in those securities.
- (2) " With propriety " means otherwise than with a view to the making of a profit or the avoidance of a loss (whether for himself or another person) by the use of the information in question.

## **8 Punishment of contraventions**

- (1) An individual who contravenes section 1, 2, 4 or 5 is liable—
  - (a) on conviction on indictment to imprisonment for a term not exceeding 2 years or a fine, or both, and
  - (b) on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum, or both.
- (2) Proceedings for an offence under this section shall not be instituted in England and Wales except by the Secretary of State or by, or with the consent of, the Director of Public Prosecutions.
- (3) No transaction is void or voidable by reason only that it was entered into in contravention of section 1, 2, 4 or 5.

### *Interpretation for ss. 1-8*

## **9 " Connected with a company "**

- For purposes of this Act, an individual is connected with a company if, but only if—
- (a) he is a director of that company or a related company, or
  - (b) he occupies a position as an officer (other than a director) or employee of that company or a related company or a position involving a professional or business relationship between himself (or his employer or a company of which he is a director) and the first company or a related company which in either case may reasonably be expected to give him access to information which, in relation to securities of either company, is unpublished price sensitive information, and which it would be reasonable to expect a person in his position not to disclose except for the proper performance of his functions.

## **10 " Unpublished price sensitive information "**

Any reference in this Act to unpublished price sensitive information in relation to any securities of a company is a reference to information which—

- (a) relates to specific matters relating or of concern (directly or indirectly) to that company, that is to say, is not of a general nature relating or of concern to that company, and
- (b) is not generally known to those persons who are accustomed or would be likely to deal in those securities but which would if it were generally known to them be likely materially to affect the price of those securities.

## **11 "Company"; " related company "**

In this Act—

- (a) " company" means any company, whether or not a company within the meaning of the Companies Act 1985, and
- (b) " related company ", in relation to a company, means any body corporate which is that company's subsidiary or holding company, or a subsidiary of that company's holding company.

## **12 " Securities ", etc.**

In this Act—

- (a) " securities " means listed securities and, in the case of a company within the meaning of the Companies Act 1985, or a company registered under Chapter II of Part XXII of that Act or an unregistered company, the following securities (whether or not listed), that is to say, any shares, any debentures, or any right to subscribe for, call for or make delivery of a share or debenture;
- (b) " listed securities ", in relation to a company, means any securities of the company listed on a recognised stock exchange; and
- (c) " advertised securities ", in relation to a particular occurrence, means listed securities or securities in respect of which, not more than 6 months before that occurrence, information indicating the prices at which persons have dealt or were willing to deal in those securities has been published for the purpose of facilitating deals in those securities.

## **13 " Deal in securities "; " off-market dealer ", etc.**

- (1) For purposes of this Act, a person deals in securities if (whether as principal or agent) he buys or sells or agrees to buy or sell any securities ; and references to dealing in securities on a recognised stock exchange include dealing in securities through an investment exchange.
- (2) " Investment exchange " means an organisation maintaining a system whereby an offer to deal in securities made by a subscriber to the organisation is communicated, without his identity being revealed, to other subscribers to the organisation, and whereby any acceptance of that offer by any of those other subscribers is recorded and confirmed.
- (3) " Off-market dealer " means a person who—
  - (a) holds a licence under section 3 of the Prevention of Fraud (Investments) Act 1958 (principals' and representatives' licences for dealers in securities), or

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- (b) is a member of a recognised stock exchange or recognised association of dealers in securities within the meaning of that Act, or
  - (c) is an exempted dealer within the meaning of that Act.
- (4) An off-market dealer is taken—
- (a) to deal in advertised securities, if he deals in such securities or acts as an intermediary in connection with deals made by other persons in such securities (references to such a dealer's officer, employee or agent dealing in such securities to be construed accordingly), and
  - (b) to make a market in any securities, if in the course of his business as an off-market dealer he holds himself out both to prospective buyers and to prospective sellers of those securities (other than particular buyers or sellers) as willing to deal in them otherwise than on a recognised stock exchange.
- (5) For purposes of section 4, an individual is taken to deal through an off-market dealer if the latter is a party to the transaction, is an agent for either party to the transaction or is acting as an intermediary in connection with the transaction.

#### **14 " Take-over offer "**

In this Act, " take-over offer for a company " means an offer made to all the holders (or all the holders other than the person making the offer and his nominees) of the shares in the company to acquire those shares or a specified proportion of them, or to all the holders (or all the holders other than the person making the offer and his nominees) of a particular class of those shares to acquire the shares of that class or a specified proportion of them.

#### **15 Expressions used in s. 6**

- (1) For purposes of section 6, the following definitions apply—
- (a) " international bond issue " means an issue of debentures of a company (" the issuing company ")—
    - (i) all of which are offered or to be offered by an off-market dealer to persons (whether principals or agents) whose ordinary business includes the buying or selling of debentures, and
    - (ii) where the debentures are denominated in sterling, not less than 50 per cent, in nominal value of the debentures are or are to be so offered to persons who have not the requisite connection with the United Kingdom;
  - (b) " issue date " means the date on which the first of those debentures is issued by the issuing company; and
  - (c) " issue manager " means—
    - (i) an off-market dealer acting as an agent of the issuing company for the purposes of an international bond issue, or
    - (ii) where the issuing company issues or proposes to issue the debentures to an off-market dealer under an arrangement in pursuance of which he is to sell them to other persons, that off-market dealer.
- (2) The Secretary of State may by regulations in a statutory instrument provide—
- (a) for permitting persons of any specified class to be treated as issue managers for purposes of subsection (1) or (2) (or both) of section 6,



- (b) for permitting persons of any specified class to be treated as off-market dealers for those purposes,
  - (c) for permitting an issue of international securities of any specified class to be treated as an international bond issue for those purposes.
- (3) The reference in subsection (1)(a)(ii) of this section to persons who have not the requisite connection with the United Kingdom is to persons who are neither—
- (a) British citizens, British Dependent Territories citizens or British Overseas citizens, nor
  - (b) companies incorporated or otherwise formed under the law of any part of the United Kingdom.
- (4) The reference in subsection (2)(c) to international securities is to any securities (whether listed, advertised or other) which are in any way connected with a country outside Great Britain for example—
- (a) securities issued by a body incorporated or resident outside Great Britain, or
  - (b) securities which are denominated in a currency other than sterling, or dealt in by bodies incorporated or resident outside Great Britain or by individuals so resident.

## 16 General interpretation provisions

(1) In this Act—

"Crown servant" means an individual who holds office under, or is employed by, the Crown ;

" debenture " has the same meaning in relation to companies not incorporated under the Companies Act 1985 as it has in relation to companies so incorporated ;

" recognised stock exchange " means any body of persons which is for the time being a recognised stock exchange for the purposes of the Prevention of Fraud (Investments) Act 1958;

" share " has the same meaning in relation to companies not incorporated under the Companies Act 1985 as it has in relation to companies so incorporated;

" statutory maximum " means—

- (a) in England and Wales, the prescribed sum within section 32 of the Magistrates' Courts Act 1980, and
- (b) in Scotland, the prescribed sum within section 289B of the Criminal Procedure (Scotland) Act 1975;

"unregistered company" means any body corporate to which the provisions of the Companies Act 1985 specified in Schedule 22 to that Act apply by virtue of section 718 of that Act.

- (2) Subject to sections 9 to 15 and this section, expressions used in this Act and the Companies Act 1985 have the same meaning in this Act as in that.
- (3) The definitions in sections 11, 12(a) and (b), 13(2) and 14, and in subsection (1) above, apply except where the context otherwise requires.

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### *General*

**17 Northern Ireland**

This Act does not extend to Northern Ireland.

**18 Commencement**

This Act comes into force on 1st July 1985.

**19 Citation**

This Act may be cited as the Company Securities (Insider Dealing) Act 1985.

## TABLE OF DERIVATIONS

The following abbreviations are used in this Table:—

" 1948 "	= Companies Act 1948 (c. 38).
" 1980 "	= Companies Act 1980 (c. 22).
"1981 "	= Companies Act 1981 (c. 62).

Provision	Derivation
1	1980 s. 68(1)-(7).
2	1980 s. 69(1)-(3).
3	1980 ss. 68(8), (10), 69(4) (in part), (5).
4	1980 s. 70(1).
5	1980 s. 70(2).
6	1980 s. 71(1), (1A), (3) (d), (e), (5); 1981 s. 112.
7	1980 ss. 68(11), 69(4), 70(2) (end piece).
8	1980 s. 72; 1981 Sch. 3 para. 59.
9	1980 s. 73(1).
10	1980 s. 73(2).
11	1980 s. 73(5).
12	1980 ss. 70(3), 73(5).
13	1980 ss. 70(3)-(5), 73(3), (5).
14	1980 s. 73(5).
15	1980 s. 71(2), (3)(a)-(c), (4).
16	1948 s. 455(1); 1980 ss. 68(9), 73(5), 87(1).
17	(Northern Ireland).
18	(Commencement).
19	(Citation).