
EXPLANATORY NOTE

(This note is not part of the Order)

This Order supplements Part 5 of the Criminal Justice Act 1993 (c. 36) (“the 1993 Act”), which establishes the offence of insider dealing (“the offence”). The offence applies to anyone who has inside information on securities or issuers of securities as an insider and then does one of three things. The first is to deal in securities whose price would be affected by the public release of the information on either a regulated market or via a professional intermediary. The second is to encourage such dealing. The third is to disclose the information outside the proper performance of their employment, office or profession.

Article 3 of the Order imposes a condition that Part 5 (and the offence) will only apply to securities either traded on specified trading venues or the price or value of which is linked to such securities. This means the offence will only apply to those who have inside information relating to such securities. Moreover, where the offence is committed by dealing, or encouraging dealing, in securities, the securities involved must satisfy the same condition. Article 4 defines a regulated market for the purposes of Part 5, so where the offence is committed via dealing, or encouraging dealing, in securities on a regulated market the offence will only apply if the market is listed in Article 4. Article 5 describes which markets are to be treated as regulated in the United Kingdom which is relevant to the territorial scope of the offence.

Article 6 amends Schedule 2 to the 1993 Act, which lists various instruments that are a ‘security’ for the purposes of Part 5. The current list is replaced by the list of financial instruments found in Part 1 of Schedule 2 to the Financial Services and Markets 2000 (Regulated Activities) Order 2001 (S.I. 2001/544) to be read in conjunction with Part 2 of Schedule 2 to that Order.

Article 7 of the Order revokes the Insider Dealing (Securities and Regulated Markets) Order 1994 (S.I. 1994/187) and amending instruments (S.I. 1996/1561, S.I. 2000/1923, and S.I. 2002/1874).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. A de minimis impact assessment is available from HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ and is published with the Explanatory Memorandum alongside this instrument at www.legislation.gov.uk.