

PART X

POWERS OF INTERVENTION AND PROCEEDINGS

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204. Application to Court of First Instance relating to non-compliance with prohibitions or requirements under section 196, 197, 198 or 201

(1) If a person fails to comply with a prohibition or requirement in force in respect of him as a result of the exercise of any of the powers under sections 196, 197, 198 and 201, the Commission may, by originating summons or originating motion, make an application to the Court of First Instance in respect of the failure, and the Court may inquire into the case and -

- (a) if the Court is satisfied that there is no reasonable ground for the person not to comply with the prohibition or requirement (as the case may be), order the person to comply with the prohibition or requirement (as the case may be) within the period specified by the Court; and

(b) if the Court is satisfied that the failure was without reasonable excuse, punish the person, and any other person ~~who appears to have been~~knowingly¹ involved in the failure, in the same manner as if he and, where applicable, that other person had been guilty of contempt of court.

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Financial Services Bureau
Securities and Futures Commission
4 January 2002

¹ As in the case of clause 178(1)(b) of Part VIII, we accept Members' comments that that the expression "any other person who appears to have been involved in the failure" should be clarified and propose to amend it to "any other person knowingly involved in the failure". The policy intention is that the Court should be empowered to punish an accessory or accomplice who has been involved in the non-compliance with a prohibition or requirement imposed by the SFC.