
STATUTORY INSTRUMENTS

2015 No. 2038

The Payment Accounts Regulations 2015

PART 1

Introductory provisions

Citation and commencement

- 1.—(1) These Regulations may be cited as the Payment Accounts Regulations 2015.
- (2) These Regulations come into force as follows—
 - (a) regulations 6 to 12 come into force six months after the Authority publishes the linked services list in accordance with regulation 3;
 - (b) otherwise, these Regulations come into force on 18th September 2016.

Interpretation

- 2.—(1) In these Regulations—
 - “the Act” means the Financial Services and Markets Act 2000(1);
 - “alternative arrangement” means a switching service that has been designated as such under regulation 15(1);
 - “the Authority” means the Financial Conduct Authority;
 - “business day” means a day on which the relevant payment service provider is open for business as required for the execution of a payment transaction;
 - “consumer” means any natural person who is acting for purposes which are outside that person’s trade, business, craft or profession;
 - “credit institution” has the same meaning as in the Payment Services Regulations, but for the purposes of these Regulations does not include a credit union within the meaning of—
 - (a) the Credit Unions Act 1979(2); or
 - (b) the Credit Unions (Northern Ireland) Order 1985(3);
 - “direct debit” has the same meaning as in the Payment Services Regulations;
 - “designation notice” means a notice given under regulation 21(1);
 - “designated credit institution” means a credit institution that has been designated under regulation 21(1);
 - “EBA” means the European Banking Authority;

(1) 2000 c.8.
(2) 1979 c.34; Section 31 was amended by section 151(1) of, and paragraph 16(2)(b) of Part 1 of Schedule 4 to the Co-operative and Community Benefit Societies Act 2014 c.14.
(3) S.I. 1985/1205 (N.I. 12).

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“EU standardised terminology” means the terms set out in any regulatory technical standards adopted by the European Commission pursuant to Article 3(4) of the Payment Accounts Directive;

“Financial Ombudsman Service” means the ombudsman scheme referred to in section 225 of the Act;

“fee information document” means a document provided under regulation 8(1);

“framework contract” has the same meaning as in the Payment Services Regulations;

“linked services list” means the list published by the Authority under regulation 3(1);

“Money Advice Service” means the body corporate originally established by the Authority under section 6A of the Act (as it had effect before the coming into force of the Financial Services Act 2012(4));

“overdraft facility” means an explicit credit agreement whereby a payment service provider makes available to a consumer funds which exceed the current balance in the consumer’s payment account;

“payment account” means an account held in the name of one or more consumers through which consumers are able to place funds, withdraw cash and execute and receive payment transactions to and from third parties, including the execution of credit transfers, but does not include any of the following types of account provided that the account is not used for day-to-day payment transactions: savings accounts; credit card accounts where funds are usually paid in for the sole purpose of repaying a credit card debt; current account mortgages or e-money accounts;

“payment account with basic features” has the meaning given in regulation 19(1);

“the Payment Accounts Directive” means Directive 2014/92/EU of the European Parliament and of the Council of 23rd July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features(5);

“payment service provider” has the same meaning as in the Payment Services Regulations but for the purposes of these Regulations, does not include—

- (a) a credit union within the meaning of—
 - (i) the Credit Unions Act 1979;
 - (ii) the Credit Unions (Northern Ireland) Order 1985;
- (b) National Savings and Investments; and
- (c) the Bank of England;

“Payment Services Regulations” means the Payment Services Regulations 2009(6);

“Payment Systems Regulator” means the body established pursuant to section 39 of the Financial Services (Banking Reform) Act 2013(7);

“payment transaction” has the same meaning as in the Payment Services Regulations;

“statement of fees” means a statement provided under regulation 10(1);

“switching” or “switching service” means, upon a consumer’s request, transferring from one payment service provider to another either the information about all or some standing orders for credit transfers, recurring direct debits and recurring incoming credit transfers executed on

(4) 2012 c.21. Section 6A, together with the original Part I (sections 1-18), was substituted by Part 1A of the Financial Services and Markets Act 2000 by the Financial Services Act 2012.

(5) OJ No L 257, 28.8.2014, p214.

(6) S.I. 2009/209.

(7) 2013 c.33.

a payment account, or any positive payment account balance from one payment account to the other, or both, with or without closing the former payment account;

“the Tribunal” means the Upper Tribunal;

“United Kingdom credit institution” means a credit institution which is incorporated in, or formed under the law of any part of, the United Kingdom.

(2) Except where provided otherwise, any expression used in these Regulations which is used in the Payment Accounts Directive has the meaning which is given in that Directive.

PART 2

Comparability of fees connected with payment accounts

Publication of the linked services list

3.—(1) Following adoption by the European Commission of regulatory technical standards setting out the EU standardised terminology, the Authority must without delay, and at the latest within three months of entry into force of the EU standardised terminology, publish a list of the most representative services linked to a payment account and subject to a fee (“the linked services list”).

(2) The linked services list must—

- (a) feature at least 10 and no more than 20 of the most representative services linked to a payment account offered by at least one payment service provider and subject to a fee;
- (b) contain terms and definitions for each of the services featured; and
- (c) where applicable, use the EU standardised terminology.

Periodic review of the linked services list

4.—(1) Every four years, following publication of the linked services list, the Authority must assess, and where appropriate, update the list.

(2) The Authority must notify to the European Commission and to EBA the outcome of its assessment and, where applicable, provide them with the updated list.

Revision of the linked services list

5. Upon the European Commission adopting any change to the regulatory technical standards setting out the EU standardised terminology, the Authority must revise the linked services list to make any consequential amendment and must publish the revised list within three months of the change to the regulatory technical standards entering into force.

Glossary

6.—(1) Any payment service provider that offers a payment account must make available to consumers a glossary of at least the terms set out in the linked services list and the related definitions (“the glossary”).

(2) The glossary must be drafted in clear, unambiguous and non-technical language and must not be misleading.

Information for consumers

7. Where applicable, any payment service provider that offers a payment account must use the terms set out in the linked services list in its contractual, commercial and marketing information.

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Fee information document

8.—(1) Without affecting the requirements of—

- (a) Part 5 (information requirements for payment systems) of the Payment Services Regulations;
- (b) any rules made by the Authority under Part 9A(8) (rules and guidance) of the Act for the purposes of implementing Article 12 of Directive 2008/48/EC of the European Parliament and of the Council on credit agreements for consumers(9);
- (c) regulations 3(10) (information to be disclosed: agreements other than telephone contracts, non-telephone distance contracts, excluded pawn agreements and overdraft agreements), 4 (information to be disclosed: telephone contracts), 5 (information to be disclosed: non-telephone distance contracts), 10(11) and 11(information to be disclosed: overdraft agreements) of the Consumer Credit (Disclosure of Information) Regulations 2010(12); and
- (d) sections 55C(13) (copy of draft consumer credit agreement) and 61B(2)(14) (duty to supply copy of overdraft agreement) of the Consumer Credit Act 1974(15),

any payment service provider that offers a payment account must ensure that, in good time before entering into a contract for a payment account with a consumer, it provides the consumer with a fee information document.

(2) Schedule 1 makes further provision regarding the fee information document.

Availability of fee information document and glossary

9.—(1) Any payment service provider that offers a payment account must ensure that the fee information document and the glossary are—

- (a) made available to consumers at any time;
- (b) provided in an easily accessible manner, including to non-customers—
 - (i) in electronic form on the payment service provider’s website where available; and
 - (ii) in the premises of the payment service provider which are accessible to consumers.

(2) The fee information document and glossary must be provided on paper or another durable medium free of charge upon request by a consumer.

Statement of fees

10.—(1) Without affecting the requirements of Part 5 of the Payment Services Regulations, the Consumer Credit (Running-Account Credit Information) Regulations 1983(16) and sections 78(4) (duty to give information to debtor under running-account credit agreement) and 78A(17) (duty to give information to debtor on change of rate of interest) of the Consumer Credit Act 1974, any payment service provider that offers a payment account must provide an annual statement of fees (“statement of fees”) free of charge to all consumers holding a payment account with it.

(8) Part 9A was substituted for the original Part 10 (sections 138-164) by section 24(1) of the Financial Services Act 2012.

(9) OJ No L 133, 22.5.2008, p66.

(10) Regulation 3 was amended by S.I. 2010/1969 and S.I. 2013/1881.

(11) Regulation 10 was amended by S.I. 2010/1969 and S.I. 2011/11.

(12) S.I. 2010/1013.

(13) Section 55C was inserted by S.I. 2010/1010 and amended by S.I. 2013/1881 and S.I. 2015/910.

(14) Section 61B was inserted by S.I. 2010/1010.

(15) 1974 c.39.

(16) S.I. 1983/1570.

(17) Section 78A was inserted by S.I. 2010/1010.

(2) The method of communication used to provide the statement of fees must be agreed with the consumer and the statement of fees must be provided on paper upon the request of the consumer.

(3) A payment service provider may provide the statement of fees together with information required pursuant to the requirements of the legislation referred to in paragraph (1), so long as the statement is presented and laid out in a way that is easy to read, using characters of a readable size.

(4) Schedule 2 makes further provision regarding the statement of fees.

Branding

11.—(1) A payment service provider that offers payment accounts may use brand names to designate its services in its contractual, commercial and marketing information to consumers, provided that it clearly identifies, where applicable, the corresponding terms set out in the linked services list.

(2) A payment service provider that offers payment accounts may use brand names in the fee information document and the statement of fees, provided such brand names are used in addition to the terms set out in the linked services list and as a secondary designation of those services.

The comparison website

12.—(1) The Money Advice Service must provide consumers with access, free of charge, to a website comparing fees charged by payment service providers for at least the services featured in the linked services list (“the comparison website”).

(2) The comparison website must—

- (a) give payment service providers equal treatment in search results;
- (b) clearly disclose that it is owned by the Money Advice Service;
- (c) set out, clear, objective criteria on which the comparison is to be based;
- (d) use plain and unambiguous language and, where applicable, the terms set out in the linked services list;
- (e) provide accurate and up-to-date information and state the time of the last update;
- (f) include a broad range of payment account offers covering a significant part of the market, and where the information presented is not a complete overview of the market, a clear statement to that effect before displaying results; and
- (g) provide an effective procedure to report incorrect information on published fees.

Payment accounts packaged with another product or service

13.—(1) Where a payment account is offered as part of a package with another product or service which is not linked to a payment account, the payment service provider must inform the consumer whether it is possible to purchase the payment account from it separately.

(2) Where a payment service provider informs the consumer pursuant to paragraph (1) that it is possible to purchase the payment account from it separately, the payment service provider must additionally provide the consumer with separate information regarding the costs and fees associated with each of the other products and services offered in the package that can be purchased separately from the payment service provider.

PART 3

Switching

Provision of the switching service

14.—(1) A payment service provider must offer a switching service between payment accounts that are—

- (a) denominated in the same currency; and
- (b) opened or held with a payment service provider located in the United Kingdom.

(2) A switching service must meet the requirements set out in Schedule 3, except where regulation 15 applies.

Alternative arrangements

15.—(1) This regulation applies where a payment service provider is a party to and compliant with the requirements of a switching service which the Payment Systems Regulator has designated as an alternative arrangement.

(2) In order to be designated as an alternative arrangement, the Payment Systems Regulator must be satisfied that the switching service —

- (a) is clearly in the interest of the consumer;
- (b) does not impose upon the consumer any burden additional to those imposed by paragraphs 2 to 6 of Schedule 3;
- (c) ensures that the procedure for switching is completed at least within the same overall time-frame that applies in the case of a switching service that meets the requirements of paragraphs 2 to 6 of Schedule 3.

Designation of alternative arrangements etc.

16.—(1) Schedule 4 makes provision in connection with—

- (a) the designation of alternative arrangements; and
- (b) the powers of the Payment Systems Regulator over operators of switching services designated as alternative arrangements.

(2) Schedule 5 makes provision in connection with—

- (a) fees connected with an alternative arrangement;
- (b) compensation for financial losses incurred by consumers switching accounts under an alternative arrangement; and
- (c) information relating to an alternative arrangement that a payment service provider must make available to consumers.

Facilitation of cross-border account opening for consumers

17.—(1) Where a consumer indicates to a payment service provider located within the United Kingdom with whom that consumer holds a payment account (“the UK payment service provider”) that the consumer wishes to open a payment account with a payment service provider located outside the United Kingdom, but within the European Union, (“the EU payment service provider”), the UK payment service provider must, by a date specified by the consumer—

- (a) provide the consumer free of charge with—

- (i) a list of all currently active standing orders for credit transfers and debtor-driven direct debit mandates, where available; and
 - (ii) available information about recurring incoming credit transfers and creditor-driven direct debits executed on the consumer's payment account in the previous 13 months;
 - (b) transfer any positive balance remaining on the payment account held with the UK payment service provider to the payment account opened or held by the consumer with the EU payment service provider; and
 - (c) without affecting the requirements of regulation 43(18) (termination of framework contract) of the Payment Service Regulations, close the payment account held by the consumer with the UK payment service provider.
- (2) The date specified by the consumer referred to in paragraph (1) must be at least six business days after the UK payment service provider receives the consumer's request, unless otherwise agreed between the consumer and the UK payment service provider.
- (3) The requirement in paragraph (1)(b) is only to apply where—
- (a) the consumer has—
 - (i) requested that the transfer be made;
 - (ii) provided full details of the account opened or held with the EU payment service provider; and
 - (b) there are no outstanding obligations on the account.
- (4) Where outstanding obligations prevent the UK payment service provider from closing the payment account in accordance with paragraph (1)(c), it must without delay inform the consumer.

PART 4

Access to payment accounts

Non-discrimination in the provision of payment accounts

18.—(1) A credit institution must not discriminate against consumers legally resident in the European Union by reason of their nationality or place of residence or by reason of any other ground referred to in Article 21 of the Charter of Fundamental Rights of the European Union when those consumers apply for or access a payment account.

(2) The conditions applicable to holding a payment account with basic features must not be discriminatory.

Payment account with basic features

19.—(1) A payment account with basic features is a payment account, denominated in sterling, which allows consumers to—

- (a) open, operate and close the account;
- (b) place funds in the account at the counter of the publicly accessible premises of—
 - (i) the credit institution offering the payment account with basic features (“A”); and
 - (ii) any other credit institution with which A has agreed arrangements that allow any consumer who holds a payment account with A which is not a payment account with basic features to place funds with that institution;

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- (c) withdraw cash from the account within the European Union in sterling or in the currency of the member State where the withdrawal is effected—
 - (i) at the counter of the publicly accessible premises of—
 - (aa) the credit institution offering the payment account with basic features; and
 - (bb) any relevant third party;
 - (ii) at automated teller machines operated by the credit institution offering the payment account with basic features and any relevant third party during or outside the credit institution's or relevant third party's opening hours;
 - (d) execute the following payment transactions within the European Union in sterling or in the currency of another member State—
 - (i) direct debits;
 - (ii) payment transactions through a payment card, including online payments;
 - (iii) credit transfers, including standing orders, at, where available, terminals and counters and via the online facilities of the credit institution.
- (2) For the purposes of paragraph (1), “relevant third party” means a payment service provider with which A has agreed arrangements that allow any consumer who holds a payment account with A which is not a payment account with basic features to withdraw cash from—
- (a) that payment service provider's publicly accessible premises; and
 - (b) automated teller machines operated by that payment service provider.
- (3) A payment account with basic features must allow consumers to execute an unlimited number of operations in relation to the services set out in paragraph (1).
- (4) A credit institution offering a payment account with basic features must allow consumers to manage and initiate payment transactions from the consumer's payment account with basic features—
- (a) at its publicly accessible premises; and
 - (b) via online facilities, where available.
- (5) A credit institution must not provide an overdraft facility in relation to a payment account with basic features, and must take all reasonable steps to prevent consumers from carrying out any payment transaction using a payment account with basic features where executing that transaction would result in overrunning.
- (6) Subject to paragraph (7), a credit institution must ensure that access to a payment account with basic features is not made conditional on the purchase of—
- (a) additional services; or
 - (b) shares in the credit institution.
- (7) A credit institution may limit access to a payment account with basic features to a consumer who purchases shares in that credit institution where the requirement to purchase shares in the credit institution applies to all the credit institution's customers.

Fees

20.—(1) Subject to paragraph (2), a credit institution must not charge any fee for the services set out in regulation 19(1) when those services are provided as part of a payment account with basic features.

(2) Where a credit institution provides any service set out in regulation 19(1) to a consumer in a currency other than sterling, the credit institution may charge a fee for that service provided that the fee charged is reasonable.

(3) In determining whether a fee charged pursuant to paragraph (2) is reasonable, regard shall be given to the following criteria—

- (a) national income levels;
- (b) average fees charged by UK credit institutions in respect of the service.

(4) Where a consumer holding a payment account with basic features—

- (a) authorises a payment transaction from the account; and
- (b) the payment transaction is not executed as a result of there being insufficient funds available,

the credit institution must not charge the consumer any fee.

(5) Where there has been overrunning on a payment account with basic features, a credit institution must not charge the consumer any fee or any interest.

Designated credit institutions

21.—(1) The Treasury must, by giving notice, designate a sufficient number of United Kingdom credit institutions as credit institutions to which the duty in regulation 22 is to apply in order to ensure that—

- (a) access to a payment account with basic features is guaranteed for all eligible consumers in the United Kingdom;
- (b) distortions of competition are prevented.

(2) Schedule 6 makes provision about the designation of credit institutions for this purpose.

Duty to offer a payment account with basic features

22.—(1) A designated credit institution must offer a payment account with basic features to any consumer who—

- (a) applies for a payment account with basic features on or after 18th September 2016; and
- (b) meets the eligibility criteria set out in regulation 23.

(2) Where a designated credit institution does not offer a service referred to in regulation 19(1) to consumers holding payment accounts with it which are not payment accounts with basic features, it is not required to offer that service as part of a payment account with basic features.

Eligibility criteria

23.—(1) In order to be eligible for a payment account with basic features offered by a designated credit institution (“B”), a consumer must be legally resident in the European Union, and must either—

- (a) not hold a payment account with any United Kingdom credit institution that has at least the features set out in regulation 19(1); or
- (b) be ineligible for all payment accounts offered by B that are not payment accounts with basic features.

(2) For the purposes of paragraph (1)—

- (a) consumers legally resident within the European Union include—
 - (i) consumers with no fixed address;

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- (ii) asylum seekers within the meaning of section 94 of the Immigration and Asylum Act 1999⁽¹⁹⁾ (interpretation); and
 - (iii) consumers who have not been granted a residence permit but whose expulsion is impossible for legal or practical reasons;
- (b) a consumer is not to be considered to hold a payment account where the consumer makes a declaration that the credit institution with which the payment account is held has given notice that the payment account is to be closed.
- (3) A designated credit institution must verify whether a consumer falls within paragraph (1)(a), unless it chooses to rely on a declaration made by the consumer to that effect.

Timescale for opening a payment account with basic features

24. Where an application for a payment account with basic features is made by a consumer to a designated credit institution, the designated credit institution must open or refuse to open the account without undue delay, and no later than 10 business days from receipt of the completed application.

Refusal of application

25.—(1) A designated credit institution must refuse to open a payment account with basic features for a consumer where it would be unlawful for it to do so, including where opening the account—

- (a) would be contrary to the Fraud Act 2006⁽²⁰⁾
- (b) would be contrary to the Money Laundering Regulations 2007⁽²¹⁾;
- (c) would be contrary to section 40⁽²²⁾ of the Immigration Act 2014 (prohibition on opening current accounts for disqualified persons)⁽²³⁾;
- (d) would breach a requirement or limitation imposed by the Authority on the designated credit institution under Part 4A⁽²⁴⁾ (permission to carry on regulated activities) of the Act that prevents it from accepting new customers.

(2) A designated credit institution may refuse to open a payment account with basic features where it considers that the consumer's conduct in relation to the designated credit institution's staff amounts to the commission of an offence under—

- (a) section 4⁽²⁵⁾, 4A⁽²⁶⁾ or 5⁽²⁷⁾ of the Public Order Act 1986⁽²⁸⁾;
- (b) the Protection from Harassment Act 1997⁽²⁹⁾;
- (c) section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening or abusive behaviour)⁽³⁰⁾;

⁽¹⁹⁾ 1999 c.33; section 94 was amended by S.I. 2008/2833 and sections 44, 60(2) and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002 (c.41) (of the amendments made to section 94 by the 2002 Act, only the amendment given effect by section 60(2) has entered in to force to date).

⁽²⁰⁾ 2006 c.35.

⁽²¹⁾ S.I. 2007/2157.

⁽²²⁾ Section 40 was amended by S.I. 2014/3074.

⁽²³⁾ 2014 c.22.

⁽²⁴⁾ Part 4A was substituted for the original Part IV by section 11(2) of the Financial Services Act 2012.

⁽²⁵⁾ Section 4 was amended by sections 111 and 174(2) of, paragraph 26(1) and (34) of Part 1 of Schedule 7 to, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15).

⁽²⁶⁾ Section 4A was inserted by section 154 of the Criminal Justice and Public Order Act 1994 (c.33) and was amended by section 174(2) of, and Part 2 of Schedule 2 to, the Serious Organised Crime and Police Act 2005.

⁽²⁷⁾ Section 5 was amended by section 57(2) of the Crime and Courts Act 2013 (c.22), and Part 2 of Schedule 2 to, the Serious Organised Crime and Police Act 2005.

⁽²⁸⁾ 1986 c.64.

⁽²⁹⁾ 1997 c.40.

⁽³⁰⁾ 2010 asp 13.

(d) Article 9 of the Public Order (Northern Ireland) Order 1987 (use of words or behaviour or display of written material)(**31**);

(e) the Protection from Harassment (Northern Ireland) Order 1997(**32**).

(3) Where an application for a payment account with basic features is refused, the designated credit institution must without delay inform the consumer in writing and free of charge of the reason for the refusal if it may lawfully do so.

(4) Where notification of the reason for refusal is given, the designated credit institution must advise the consumer of—

- (a) the procedure for submitting a complaint to it against the refusal;
- (b) the consumer's right to make a complaint to the Financial Ombudsman Service; and
- (c) the designated credit institution's relevant contact details.

Framework contracts and termination

26.—(1) Subject to paragraphs (2) and (3), framework contracts for the provision of a payment account with basic features must comply with the requirements of the Payment Service Regulations.

(2) A designated credit institution may only close a payment account with basic features where at least one of the following conditions is met—

- (a) the consumer has knowingly used, or attempted to use, the payment account for illegal purposes;
- (b) there has been no transaction on the account for more than 24 consecutive months;
- (c) the consumer provided incorrect information when applying for the account, and had the correct information been provided, the application would have been refused;
- (d) the consumer is no longer legally resident in the European Union;
- (e) the consumer has access to another payment account in the United Kingdom which—
 - (i) allows the consumer to make use of the services listed in regulation 19(1); and
 - (ii) was opened after the payment account with basic features;
- (f) the credit institution considers that the consumer's conduct in relation to the credit institution's staff amounts to the commission of an offence under—
 - (i) section 4, 4A or 5 of the Public Order Act 1986;
 - (ii) the Protection from Harassment Act 1997;
 - (iii) section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening or abusive behaviour);
 - (iv) Article 9 of the Public Order (Northern Ireland) Order 1987 (use of words or behaviour or display of written material);
 - (v) the Protection from Harassment (Northern Ireland) Order 1997.

(3) Subject to paragraph (4), where a designated credit institution terminates a framework contract for a payment account with basic features on one or more of the grounds mentioned in paragraph (2) (b), (d) or (e), the designated credit institution must inform the consumer of the grounds and the justification for termination—

- (a) at least two months before the termination enters into force;
- (b) in writing; and

(31) [S.I. 1987/463 \(N.I.7\)](#).

(32) [S.I. 1997/1180 \(N.I.9\)](#).

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(c) free of charge.

(4) Paragraph (3) does not apply where disclosure to the customer of the grounds and justification for the termination would be unlawful.

(5) Any termination in accordance with paragraph (2)(a), (c) or (f) is to have immediate effect.

(6) Where a designated credit institution terminates a framework contract in accordance with paragraph 2(a), (c) or (f), the credit institution must inform the consumer of the grounds and justification for termination without delay except where it would be unlawful to do so.

(7) Any notification given by the qualifying credit institution under paragraph (3) must advise the consumer of—

- (a) the procedure for submitting a complaint to it against the termination;
- (b) the consumer's right to make a complaint to the Financial Ombudsman Service; and
- (c) the designated credit institution's relevant contact details.

General information on payment accounts with basic features

27.—(1) The Money Advice Service must endeavour to raise awareness among consumers about—

- (a) the availability of payment accounts with basic features;
- (b) their general pricing conditions;
- (c) the procedures to be followed in order to exercise the right to access a payment account with basic features; and
- (d) the consumer's right to complain to the Financial Ombudsman Service where the consumer considers that a credit institution has not complied with the requirements of this Part.

(2) Designated credit institutions must make available to consumers, free of charge, accessible information and assistance about—

- (a) the specific features of the payment account with basic features they offer; and
- (b) the associated fees and conditions of use.

(3) Designated credit institutions must ensure that information and assistance provided pursuant to paragraph (2) make it clear that the purchase of additional services is not compulsory in order access a payment account with basic features.

PART 5

The Authority

Monitoring and enforcement

28.—(1) The Authority must maintain arrangements for the purpose of enabling it to determine whether payment service providers upon which requirements are imposed by or under—

- (a) Part 2, 3 or 4; or
- (b) regulation 30,

are complying with those requirements.

(2) The arrangements referred to in paragraph (1) may provide for functions to be performed on behalf of the Authority by any person who is, in its opinion, competent to perform them.

(3) The Authority must also maintain arrangements for—

- (a) enforcing requirements imposed on payment service providers by or under these Regulations;
- (b) taking action in accordance with regulation 35.

Reporting requirements

29.—(1) A payment service provider must give the Authority such information in respect of its compliance with the requirements imposed on it by or under Part 2, 3 or 4 or regulation 30 as the Authority may direct.

(2) Information required under this regulation must be given at such time and in such form, and verified in such manner, as the Authority may direct.

Power to direct payment service providers

30.—(1) The Authority may direct a payment service provider to take such steps as are necessary for the purposes of securing compliance with the requirements of Part 2, 3 or 4.

(2) A direction under paragraph (1) may, in particular, require the payment service provider to—

- (a) take specified action;
- (b) refrain from taking specified action;
- (c) review or take remedial action in respect of past conduct.

(3) A payment service provider to which a direction under paragraph (1) is given must comply with the direction.

Power of direction: procedure

31.—(1) A direction given under regulation 30(1) takes effect—

- (a) immediately, if the notice given under paragraph (2) states that this is the case; or
- (b) on such date as may be specified in the notice.

(2) If the Authority proposes to give a direction to a payment service provider (“A”) under regulation 30(1), or gives such a direction with immediate effect, it must give A written notice.

(3) The notice must—

- (a) give details of the direction;
- (b) state the Authority’s reasons for giving the direction;
- (c) inform A that A may make representations to the Authority within such period as may be specified in the notice (whether or not A has referred the matter to the Tribunal);
- (d) inform A of when the direction takes effect;
- (e) inform A of the right to refer a matter to the Tribunal conferred by regulation 32.

(4) The Authority may extend the period allowed under the notice for making representations.

(5) The Authority must give A written notice if, having considered any representations made by P, the Authority decides—

- (a) to give the direction in the way proposed;
- (b) to rescind a direction that has been given and which took immediate effect;
- (c) not to rescind a direction that has been given and which took immediate effect;
- (d) not to give a direction that it had proposed to give; or
- (e) to give a different direction to the one that it had proposed to give.

Status: Point in time view as at 15/12/2015.

Changes to legislation: There are currently no known outstanding effects for the The Payment Accounts Regulations 2015. (See end of Document for details)

(6) A notice under paragraph (5)(a),(c) or (e) must inform A of A's right to refer the matter to the Tribunal.

(7) A notice given under paragraph (5)(e) must comply with paragraph (3).

(8) Where a notice informs A of A's right to refer a matter to the Tribunal, it must give an indication of the procedure on such a reference.

Right to refer matters to the Tribunal

32. A payment service provider who is aggrieved by the exercise of the Authority's power to give a direction under regulation 30(1) or any decision taken by the Authority falling within regulation 31(5)(a), (c) or (e) may refer the matter to the Tribunal.

Public censure – payment service providers

33. If the Authority considers that a payment service provider has contravened a requirement imposed upon it by or under these Regulations, the Authority may publish a statement to that effect.

Financial penalties – payment service providers

34. The Authority may impose a penalty of such amount as it considers appropriate on a payment service provider that has contravened a requirement imposed upon it by or under these Regulations.

Disciplinary powers

35.—(1) The Authority may take action against a person under this regulation if—

- (a) it appears to the Authority that the person is guilty of misconduct; and
- (b) the Authority is satisfied that it is appropriate in all the circumstances to take action against the person.

(2) For the purposes of this regulation, a person ("B") is guilty of misconduct if—

- (a) B has at any time been a manager in relation to a payment service provider;
- (b) there has at that time been (or continued to be) a contravention of a requirement of these Regulations by the payment service provider; and
- (c) B was at that time responsible for the management of any of the payment service provider's activities in relation to which the contravention occurred.

(3) But B is not guilty of misconduct by virtue of paragraph (2) if B satisfies the Authority that B had taken such steps as a person in B's position could reasonably be expected to take to avoid the contravention occurring (or continuing).

(4) If the Authority is entitled to take action under this regulation against B, it may—

- (a) impose a penalty upon B of such amount as it considers appropriate;
- (b) publish a statement of the B's misconduct.

Proposal to take disciplinary measures

36.—(1) Where the Authority proposes to publish a statement under regulation 33 or regulation 35(4)(b), or to impose a penalty under regulation 34 or regulation 35(4)(a), it must without delay give the person concerned a warning notice.

(2) If, having considered any representations made in response to the warning notice, the Authority decides to publish a statement under regulation 33 or regulation 35(4)(b), or impose a

penalty under regulation 34 or regulation 35(4)(a), it must without delay give the person concerned a decision notice.

(3) Any warning notice or decision notice given pursuant to this regulation must comply with the requirements of Part 26 (notices) of the Act as modified by paragraph 4 of Schedule 7.

(4) If the Authority decides to publish the statement under regulation 33 or regulation 35(4)(b) or impose a penalty on a person under regulation 34 or regulation 35(4)(a), the person concerned may refer the matter to the Tribunal.

(5) After a statement under regulation 33 or regulation 35(4)(b) is published, the Authority must send a copy of it to—

- (a) the person concerned; and
- (b) any person to whom a copy of the decision notice has been given under section 393(4)(33) (third party rights) of the Act (as applied by paragraph 4 of Schedule 7 to these Regulations).

(6) Subject to paragraph (7), sections 210(34) (statements of policy) and 211(35) (statements of policy: procedure) of the Act apply in respect of the imposition of penalties by the Authority under regulation 34 and regulation 35(4)(a) and the amount of such penalties as they apply in respect of the imposition of penalties under section 206(36) of the Act (financial penalties) and the amount of penalties under that section.

(7) Section 210(1A) of the Act does not apply in respect of the imposition of penalties by the Authority under regulation 34 or regulation 35(4)(a).

Financial penalties – general

37.—(1) A penalty imposed on a person under—

- (a) regulation 34; or
- (b) regulation 35(4)(a);

is a debt due from that person to the Authority, and is recoverable accordingly.

(2) The Authority must in respect of each of its financial years pay to the Treasury any amounts received by it during that year pursuant to regulation 34 or regulation 35(4)(a) after deducting its enforcement costs.

(3) The Treasury may give directions to the Authority as to how the Authority is to comply with its duty under paragraph (2).

(4) The directions may in particular—

- (a) specify the time when any payment is required to be made to the Treasury; and
- (b) require the Authority to provide the Treasury at a specified time with information relating to the penalties that the Authority has imposed under regulation 34 or regulation 35(4)(a).

(5) The Treasury must pay into the Consolidated Fund any sums received by them under paragraph (2).

(6) The Authority must ensure that the amounts that it retains as a result of the deduction for which paragraph (2) provides are applied for the benefit of payment service providers.

(7) For the purposes of this regulation—

(33) Section 393 was amended by section 37(1) of, and paragraphs 1 and 32 of Schedule 9 to the Financial Services Act 2012.

(34) Section 210 was amended by section 24 of, and paragraph 20 of Schedule 2 to, the Financial Services Act 2010 and section 37 of, and paragraph 17 of Schedule 9 to the Financial Services Act 2012.

(35) Section 211 was amended by section 37 of, and paragraph 18 of Schedule 9 to, the Financial Services Act 2012.

(36) Section 206 was amended by section 37 of, and paragraph 12 of Schedule 9 to, the Financial Services Act 2012.

Status: Point in time view as at 15/12/2015.

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“enforcement costs” in respect of the Authority’s financial year means the expenses incurred by the Authority during the year in connection with—

- (i) the exercise, or consideration of the possible exercise, of any of its enforcement powers in particular cases, and
- (ii) the recovery of any penalty imposed under these Regulations; and

“enforcement powers” means the Authority’s powers under this Part.

Injunctions

38.—(1) If, on the application of the Authority, the court is satisfied that—

- (a) there is a reasonable likelihood that any person will contravene a requirement imposed by or under these Regulations; or
- (b) any person has contravened such a requirement and that there is a reasonable likelihood that the contravention will continue or be repeated,

the court may make an order restraining (or in Scotland an interdict prohibiting) the contravention.

(2) If, on the application of the Authority, the court is satisfied that—

- (a) any person has contravened a requirement imposed by or under these Regulations; and
- (b) there are steps which could be taken for remedying the contravention,

the court may make an order requiring that person, and any other person who appears to have been knowingly concerned in the contravention, to take such steps as the court may direct to remedy it.

(3) The jurisdiction conferred by this regulation is exercisable—

- (a) in England and Wales and Northern Ireland, by the High Court, and
- (b) in Scotland, by the Court of Session.

(4) In paragraph (2), references to remedying a contravention include references to mitigating its effect.

Costs of supervision

39.—(1) The functions of the Authority under these Regulations are to be treated for the purposes of paragraph 23(37) (fees) of Part 3 of Schedule 1ZA to the Act as functions conferred on the Authority under that Act.

(2) Any sums which the Authority receives, or expects to receive, by way of penalties imposed by it under these Regulations are to be treated for the purposes of sub-paragraph (7) of that paragraph as sums which the Authority receives, or expects to receive, by way of penalties imposed by it under the Act.

Guidance

40.—(1) The Authority may give guidance consisting of such information and advice as it considers appropriate with respect to—

- (a) the operation of these Regulations;
- (b) any matters relating to the functions of the Authority under these Regulations;
- (c) any other matters about which it appears to the Authority to be desirable to give information or advice in connection with these Regulations.

(37) Paragraph 23 of Part 3 of Schedule 1ZA was amended by section 47 of, and paragraphs 1 and 16 of Schedule 3 to, the Pension Schemes Act 2015 (c. 8) and by section 129 of, and paragraphs 7(1) and (3) of Part 1 of Schedule 8 to, the Financial Services (Banking Reform) Act 2013 (c.33) and by S.I. 2013/1773.

- (2) The Authority may—
- (a) publish its guidance;
 - (b) offer copies of its published guidance for sale at a reasonable price;
 - (c) if it provides guidance in response to request made by any person, make a reasonable charge for that guidance.

Authority's exemption from liability in damages

41. The functions of the Authority under these Regulations are to be treated for the purposes of paragraph 25(38) (exemption from liability in damages) of Part 4 of Schedule 1ZA to the Act as functions conferred on the Authority under that Act.

Application and modification

42. Schedule 7 applies primary and secondary legislation with modifications.

PART 6

Evaluation and review

Evaluation

43.—(1) The Treasury must provide the European Commission with information on the following for the first time by 18th September 2018 and thereafter at intervals not exceeding two years:

- (a) compliance by payment service providers with regulations 6 to 11;
- (b) compliance by the Money Advice Service with the requirements of regulation 12;
- (c) the number of payment accounts that have been switched;
- (d) the proportion of applications for switching that have been refused;
- (e) the number of credit institutions offering payment accounts with basic features;
- (f) the number of payment accounts with basic features that have been opened; and
- (g) the proportion of applications for payment accounts with basic features that have been refused.

(2) The Authority must gather the information referred to in paragraph (1)(a) and (c) to (g) and supply it to the Treasury at least two months before the Treasury has to supply the information to the European Commission.

Review

44.—(1) The Treasury must from time to time—

- (a) carry out a review of these Regulations;
- (b) set out the conclusion of the review in a report; and
- (c) publish the report.

(2) In carrying out the review the Treasury must, so far as is reasonable, have regard to how the Payment Accounts Directive (which is implemented by means of these Regulations) is implemented in other member States.

Status: Point in time view as at 15/12/2015.

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- (3) The report must in particular—
 - (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations;
 - (b) assess the extent to which those objectives are achieved; and
 - (c) assess whether those objectives remain appropriate and if so, the extent to which they could be achieved by a system which involves less onerous regulatory provision.
- (4) The first report must be published before 18th September 2021.
- (5) Subsequent reports must be published at intervals not exceeding five years.

15th December 2015

Charlie Elphicke
George Hollingbery
Two of the Lords Commissioners of Her
Majesty's Treasury

Status:

Point in time view as at 15/12/2015.

Changes to legislation:

There are currently no known outstanding effects for the The Payment Accounts Regulations 2015.