
STATUTORY INSTRUMENTS

2015 No. 422

FINANCIAL SERVICES AND MARKETS

The Payment Services (Amendment) Regulations 2015

Made - - - - *4th March 2015*
Laid before Parliament *5th March 2015*
Coming into force - - *1st April 2015*

The Treasury are a government department designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to financial services.

The Treasury make the following Regulations in exercise of the powers conferred by section 2(2) of the European Communities Act 1972.

Citation and commencement

1. These Regulations may be cited as the Payment Services (Amendment) Regulations 2015 and come into force on 1st April 2015.

Amendment of the Payment Services Regulations 2009

2.—(1) The Payment Services Regulations 2009⁽³⁾ are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) omit the definition of “the CMA”; and
- (b) in the appropriate place insert—

““the Payment Systems Regulator” means the body established under section 40 of the Financial Services (Banking Reform) Act 2013⁽⁴⁾”.

(3) In regulation 97 (prohibition on restrictive rules on access to payment systems)—

- (a) in paragraph (1) for “authorised payment institutions, EEA authorised payment institutions and small payment institutions” substitute “authorised or registered payment service providers”;

(1) S.I. 2012/1759.

(2) 1972 c.68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and the European Union (Amendment) Act 2008 (c.7), Schedule, Part 1.

(3) S.I. 2009/209. The provisions of those Regulations which are relevant to these Regulations were amended by S.I. 2010/22, 2011/99 and 1043, 2012/1809, 2013/472 and 3115 and 2014/549.

(4) 2013 c. 33.

(b) in paragraph (2) for “small payment institutions” substitute “payment service providers”; and

(c) in paragraph (3)(c) for “that a person is not of a particular institutional status” substitute “of institutional status”.

(4) In regulations 98 to 100, 102 to 109, 114, 117 and 119 (and in the headings to those regulations and the heading appearing before regulation 119) for “CMA”, in each place where it occurs, substitute “Payment Systems Regulator”.

(5) In regulation 105(5) (power of Payment Systems Regulator to impose financial penalties), for “paid into the Consolidated Fund” substitute “regarded as penalty receipts of the Payment Systems Regulator for the purposes of paragraph 10 of Schedule 4 to the Financial Services (Banking Reform) Act 2013 (penalty receipts)”.

(6) After regulation 109 (guidance), insert—

“Payment Systems Regulator’s arrangements for discharging functions, funding and exemption from liability in damages

109A. The functions of the Payment Systems Regulator under these Regulations are to be regarded for the purposes of paragraphs 5(1) (arrangements for discharging functions), 9 (funding) and 14 (exemption from liability in damages) of Schedule 4 to the Financial Services (Banking Reform) Act 2013 as functions conferred on the Payment Systems Regulator by or under Part 5 of that Act.”.

Mark Lancaster

Harriett Baldwin

Two of the Lords Commissioners of Her Majesty’s Treasury

4th March 2015

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Payment Services Regulations 2009 (S.I. 2009/209) (“the 2009 Regulations”). The 2009 Regulations implement Directive 2007/64/EC of the European Parliament and the Council on payment services in the internal market (OJ L 319, 5.12.2007, p. 1) (“the Payment Services Directive”). Part 8 of the 2009 Regulations makes provision in relation to access to payment systems. Regulation 96 of the 2009 Regulations sets out the scope of the application of the Part and regulation 97 prohibits restrictive rules on access to payment systems. Regulations 98 to 109 originally conferred functions on the Office of Fair Trading in relation to the supervision and enforcement of the prohibition in regulation 97. On 1st April 2014 the 2009 Regulations were amended so that the Office of Fair Trading’s functions were transferred to the Competition and Markets Authority (“the CMA”).

Regulation 2(2) and (4) of these Regulations amend the 2009 Regulations so that the functions of the CMA under Part 8 of the 2009 Regulations are transferred to the Payment Systems Regulator, established under Part 5 of the Financial Services (Banking Reform) Act 2013 (c. 33) (the “2013 Act”).

Regulation 2(5) and (6) of these Regulations ensure that provisions in the 2013 Act governing the Payment Systems Regulator’s arrangements for discharging functions, funding, penalty receipts and exemption from liability in damages apply in respect of the Payment Systems Regulator’s functions under Part 8 of the 2009 Regulations.

Regulation 2(3) of these Regulations makes minor changes to the wording of the prohibition on restrictive rules on access to payment systems, following more closely the wording of the Payment Services Directive.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.