
STATUTORY INSTRUMENTS

2017 No. 752

The Payment Services Regulations 2017

PART 11

General

Miscellaneous

Actions for breach of requirements

148.—(1) A contravention—

- (a) which is to be taken to have occurred by virtue of regulation 21 (authorised payment institutions, small payment institutions and registered account information service providers acting without permission);
- (b) of a requirement imposed by regulation 23 (safeguarding requirements); or
- (c) of a requirement imposed by or under Part 6 (information requirements for payment services) or 7 (rights and obligations in relation to the provision of payment services),

is actionable at the suit of a private person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for breach of statutory duty.

(2) A person acting in a fiduciary or representative capacity may bring an action under paragraph (1) on behalf of a private person if any remedy—

- (a) will be exclusively for the benefit of the private person; and
- (b) cannot be obtained by way of an action brought otherwise than at the suit of the fiduciary or representative.

(3) In this regulation “private person” means—

- (a) any individual, except where the individual suffers the loss in question in the course of providing payment services; and
- (b) any person who is not an individual, except where that person suffers the loss in question in the course of carrying on business of any kind;

but does not include a government, a local authority (in the United Kingdom or elsewhere) or an international organisation.

(4) Where there has been a contravention of a requirement under regulation 76(5)(b) (payment service provider’s liability for unauthorised payment transactions), 77(6) (payer or payee’s liability for unauthorised payment transactions), 93(4) (non-execution or defective or late execution of payment transactions initiated through a payment initiation service) or 95 (right of recourse) for a payment service provider to compensate another payment service provider, the payment service provider to which compensation is required to be paid is to be treated for the purposes of this regulation as if it were a private person.