



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART X

RULES AND GUIDANCE

CHAPTER I

RULE-MAKING POWERS

Procedural provisions

152 Notification of rules to the Treasury.

- (1) If the Authority makes any rules, it must give a copy to the Treasury without delay.
- (2) If the Authority alters or revokes any rules, it must give written notice to the Treasury without delay.
- (3) Notice of an alteration must include details of the alteration.

Modifications etc. (not altering text)

C1 [S. 152](#) applied (6.8.2001) by [S.I. 2001/2512](#), [arts. 1\(1\)](#), [7\(2\)](#)

153 Rule-making instruments.

- (1) Any power conferred on the Authority to make rules is exercisable in writing.
- (2) An instrument by which rules are made by the Authority (“a rule-making instrument”) must specify the provision under which the rules are made.
- (3) To the extent to which a rule-making instrument does not comply with subsection (2), it is void.

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- (4) A rule-making instrument must be published by the Authority in the way appearing to the Authority to be best calculated to bring it to the attention of the public.
- (5) The Authority may charge a reasonable fee for providing a person with a copy of a rule-making instrument.
- (6) A person is not to be taken to have contravened any rule made by the Authority if he shows that at the time of the alleged contravention the rule-making instrument concerned had not been made available in accordance with this section.

Modifications etc. (not altering text)

C2 S. 153 applied (6.8.2001) by S.I. 2001/2512, arts. 1(1), 7(2)

154 Verification of rules.

- (1) The production of a printed copy of a rule-making instrument purporting to be made by the Authority—
 - (a) on which is endorsed a certificate signed by a member of the Authority’s staff authorised by it for that purpose, and
 - (b) which contains the required statements,
 is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are—
 - (a) that the instrument was made by the Authority;
 - (b) that the copy is a true copy of the instrument; and
 - (c) that on a specified date the instrument was made available to the public in accordance with section 153(4).
- (3) A certificate purporting to be signed as mentioned in subsection (1) is to be taken to have been properly signed unless the contrary is shown.
- (4) A person who wishes in any legal proceedings to rely on a rule-making instrument may require the Authority to endorse a copy of the instrument with a certificate of the kind mentioned in subsection (1).

Modifications etc. (not altering text)

C3 S. 154 applied (6.8.2001) by S.I. 2001/2512, arts. 1(1), 7(2)
 S. 154 excluded (6.8.2001) by S.I. 2001/2512, arts. 1(1), 7(4)
 S. 154 excluded (2.7.2002) by The Financial Services and Markets Act 2000 (Consequential Amendments and Transitional Provisions) (Credit Unions) Order 2002 (S.I. 2002/1501), art. 12(1) (with art. 13)

155 Consultation.

- (1) If the Authority proposes to make any rules, it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) The draft must be accompanied by—

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- (a) a cost benefit analysis;
 - (b) an explanation of the purpose of the proposed rules;
 - (c) an explanation of the Authority’s reasons for believing that making the proposed rules is compatible with its general duties under section 2; and
 - (d) notice that representations about the proposals may be made to the Authority within a specified time.
- (3) In the case of a proposal to make rules under a provision mentioned in subsection (9), the draft must also be accompanied by details of the expected expenditure by reference to which the proposal is made.
- (4) Before making the proposed rules, the Authority must have regard to any representations made to it in accordance with subsection (2)(d).
- (5) If the Authority makes the proposed rules, it must publish an account, in general terms, of—
 - (a) the representations made to it in accordance with subsection (2)(d); and
 - (b) its response to them.
- (6) If the rules differ from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant—
 - (a) the Authority must (in addition to complying with subsection (5)) publish details of the difference; and
 - (b) those details must be accompanied by a cost benefit analysis.
- (7) Subsections (1) to (6) do not apply if the Authority considers that the delay involved in complying with them would be prejudicial to the interests of consumers.
- (8) Neither subsection (2)(a) nor subsection (6)(b) applies if the Authority considers—
 - (a) that, making the appropriate comparison, there will be no increase in costs; or
 - (b) that, making that comparison, there will be an increase in costs but the increase will be of minimal significance.
- (9) Neither subsection (2)(a) nor subsection (6)(b) requires a cost benefit analysis to be carried out in relation to rules made under—
 - (a) section 136(2);
 - (b) subsection (1) of section 213 as a result of subsection (4) of that section;
 - (c) section 234;
 - (d) paragraph 17 of Schedule 1.
- (10) “Cost benefit analysis” means an estimate of the costs together with an analysis of the benefits that will arise—
 - (a) if the proposed rules are made; or
 - (b) if subsection (6) applies, from the rules that have been made.
- (11) “The appropriate comparison” means—
 - (a) in relation to subsection (2)(a), a comparison between the overall position if the rules are made and the overall position if they are not made;
 - (b) in relation to subsection (6)(b), a comparison between the overall position after the making of the rules and the overall position before they were made.
- (12) The Authority may charge a reasonable fee for providing a person with a copy of a draft published under subsection (1).

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Modifications etc. (not altering text)

- C4** S. 155 excluded (6.8.2001) by S.I. 2001/2512, **arts. 1(1), 7(3)**
 S. 155 excluded (31.10.2001) by S.I. 2001/3374, **arts. 1, 12(2)**
- C5** S. 155 excluded (15.7.2004) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order 2004 (S.I. 2004/454), art. 12(1) (as inserted by The Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) (Amendment) Order 2004 (S.I. 2004/1609), **art. 6**
- C6** S. 155 excluded (29.10.2004) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Mortgages) Order 2004 (S.I. 2004/2615), arts. 1(2)(a), **4(2)**
- C7** S. 155 excluded (7.12.2006) by The Compensation Act 2006 (Contribution for Mesothelioma Claims) Regulations 2006 (S.I. 2006/3259), regs. 1(1), **4**
- C8** S. 155 excluded (30.6.2008 for certain purposes, 1.1.2009 otherwise) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) (No. 2) Order 2007 (S.I. 2007/3510), arts. 1(2), **6(2)**
- C9** S. 155(1) applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 42(4)(5)**
- C10** S. 155(2)(c) restricted (17.8.2001) by S.I. 2001/2617, arts. 2(a), 4(3), 8, Sch. 2 paras. 9, 11(b), 13, **14**
- C11** S. 155(2)(d) applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 42(4)(5)**
- C12** S. 155(4) applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), **reg. 42(4)(5)**
- C13** S. 155(7) modified (22.2.2008) by The Northern Rock plc Transfer Order 2008 (S.I. 2008/432), **art. 16(1)**
- C14** S. 155(7) modified (29.9.2008 at 8.00 a.m.) by The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 (S.I. 2008/2546), **art. 38(1)**
- C15** S. 155(7) modified (7.10.2008 at 9.30 a.m.) by The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008, (S.I. 2008/2644) {art. 28(1)}
- C16** S. 155(7) modified (8.10.2008 at 10.10 a.m.) by The Transfer of Rights and Liabilities to ING Order 2008 (S.I. 2008/2666), **art. 19(1)**
- C17** S. 155(7) modified (8.10.2008 at 12.15 p.m.) by The Kaupthing Singer & Friedlander Limited Transfer of Certain Rights and Liabilities Order 2008 (S.I. 2008/2674), **art. 30(1)**
- C18** S. 155(7) modified (30.3.2009 at 8.00 a.m.) by The Amendments to Law (Resolution of Dunfermline Building Society) Order 2009 (S.I. 2009/814), **art. 10(1)**
- C19** S. 155(7) modified by Payment Services Regulations 2009 (S.I. 2009/209), Sch. 7 para. 3(1) (as inserted (1.10.2009 for certain purposes, 1.11.2009 otherwise) by The Payment Services (Amendment) Regulations 2009 (S.I. 2009/2475), regs. 1(2)(3), **13**)
- C20** S. 155(7) modified (1.1.2010) by The Northern Rock plc Transfer Order 2009 (S.I. 2009/3226), arts. 1(2)(b), **21(1)**

156 General supplementary powers.

- (1) Rules made by the Authority may make different provision for different cases and may, in particular, make different provision in respect of different descriptions of authorised person, activity or investment.
- (2) Rules made by the Authority may contain such incidental, supplemental, consequential and transitional provision as the Authority considers appropriate.

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Modifications etc. (not altering text)

C21 S. 156 applied (6.8.2001) by S.I. 2001/2512, **arts. 1(1), 7(2)**

C22 S. 156: power to make rules amended (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), regs. 1, **3(2)(a)**

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