



# Immigration Act 2014

## 2014 CHAPTER 22

### PART 3

#### ACCESS TO SERVICES ETC

### CHAPTER 2

#### OTHER SERVICES ETC

#### *Bank accounts*

#### **40 Prohibition on opening current accounts for disqualified persons**

- (1) A bank or building society (B) must not open a current account for a person (P) who is within subsection (2) unless—
  - (a) B has carried out a status check which indicates that P is not a disqualified person, or
  - (b) at the time when the account is opened B is unable, because of circumstances that cannot reasonably be regarded as within its control, to carry out a status check in relation to P.
- (2) A person is within this subsection if he or she—
  - (a) is in the United Kingdom, and
  - (b) requires leave to enter or remain in the United Kingdom but does not have it.
- (3) For the purposes of this section—
  - (a) carrying out a “status check” in relation to P means checking with a specified anti-fraud organisation or a specified data-matching authority whether, according to information supplied to that organisation or authority by the Secretary of State, P is a disqualified person;

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*Status: This is the original version (as it was originally enacted).*

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- (b) a “disqualified person” is a person within subsection (2) for whom the Secretary of State considers that a current account should not be opened by a bank or building society;
  - (c) opening an account for P includes—
    - (i) opening a joint account for P and others;
    - (ii) opening an account in relation to which P is a signatory or is identified as a beneficiary;
    - (iii) adding P as an account holder or as a signatory or identified beneficiary in relation to an account.
- (4) In subsection (3)(a)—
- “anti-fraud organisation” has the same meaning as in section 68 of the Serious Crime Act 2007;
  - “data-matching authority” means a person or body conducting data matching exercises, within the meaning of Schedule 9 to the Local Audit and Accountability Act 2014, under or by virtue of that or any other Act;
  - “specified” means specified by an order made by the Secretary of State for the purposes of this section.
- (5) Subsection (1)(b) does not apply where—
- (a) a bank or building society is required to pay a reasonable fee for carrying out status checks, and
  - (b) its inability to carry out a status check is due to its failure to pay the fee.
- (6) A bank or building society that refuses to open a current account for someone on the ground that he or she is a disqualified person must tell the person, if it may lawfully do so, that that is the reason for its refusal.

#### **41 Regulation by Financial Conduct Authority**

- (1) The Treasury may make regulations to enable the Financial Conduct Authority to make arrangements for monitoring and enforcing compliance with the prohibition imposed on banks and building societies by section 40.
- (2) The regulations may (in particular)—
  - (a) provide for the Financial Conduct Authority to be given free access to the information to which banks and building societies are given access when carrying out status checks under section 40;
  - (b) apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000, including in particular those mentioned in subsection (3), with or without modification.
- (3) The provisions are—
  - (a) provisions about investigations, including powers of entry and search and criminal offences;
  - (b) provisions for the grant of an injunction (or, in Scotland, an interdict) in relation to a contravention or anticipated contravention;
  - (c) provisions giving the Financial Conduct Authority powers to impose disciplinary measures (including financial penalties) or to give directions;
  - (d) provisions giving a Minister of the Crown (within the meaning of the Ministers of the Crown Act 1975) or the Financial Conduct Authority powers to make subordinate legislation;

- (e) provisions for the Financial Conduct Authority to charge fees.

#### **42 “Bank” and “building society”**

- (1) In sections 40 and 41 “bank” means an authorised deposit-taker that has its head office or a branch in the United Kingdom.

This is subject to subsection (4).

- (2) In subsection (1) “authorised deposit-taker” means—
  - (a) a person who under Part 4A of the Financial Services and Markets Act 2000 has permission to accept deposits;
  - (b) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (3) A reference in subsection (2) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.
- (4) “Bank” does not include—
  - (a) a building society;
  - (b) a person who is specified, or is within a class of persons specified, by an order under section 38 of the Financial Services and Markets Act 2000 (exemption orders);
  - (c) a credit union within the meaning given by section 31(1) of the Credit Unions Act 1979 or by Article 2(2) of the Credit Unions (Northern Ireland) Order 1985;
  - (d) a friendly society within the meaning given by section 116 of the Friendly Societies Act 1992.
- (5) In sections 40 and 41, and in subsection (4), “building society” means a building society incorporated (or deemed to be incorporated) under the Building Societies Act 1986.

#### **43 Power to amend**

- (1) The Treasury may by order amend any of sections 40 to 42 so as—
  - (a) to alter the categories of financial institution to which those sections apply;
  - (b) to alter the categories of account to which the prohibition in section 40(1) applies;
  - (c) to include provision defining a category of account specified in that section;
  - (d) to provide for the prohibition in section 40(1) not to apply in the case of an account to be operated (or an account that is operated) by or for a person or body of a specified description.
- (2) An order under subsection (1) may amend a section so that it provides for a matter to be specified in a further order to be made by the Treasury.
- (3) In subsection (1) “account” includes a financial product by means of which a payment may be made.