



Small Business, Enterprise and Employment Act 2015

2015 CHAPTER 26

PART 1

ACCESS TO FINANCE

Financial information about businesses

6 Sections 4 and 5: supplementary

- (1) Regulations under sections 4 and 5 may make provision enabling the Financial Conduct Authority to take action for monitoring and enforcing compliance with the regulations.
- (2) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 or subordinate legislation made under that Act, with or without modification.
- (3) Those provisions include in particular—
 - (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.
- (4) Regulations under sections 4 and 5 may make provision that enables complaints about the activities of designated credit reference agencies or designated finance platforms

- to be dealt with under the scheme established by Part 16 of the Financial Services and Markets Act 2000 (financial ombudsman scheme), and for that purpose the regulations may—
- (a) apply, or make provision corresponding to, any of the provisions of that Part or rules made under that Part (with or without modifications);
 - (b) impose obligations on—
 - (i) the Financial Conduct Authority;
 - (ii) the scheme operator (within the meaning of that Part);
 - (iii) an ombudsman (within the meaning of that Part).
- (5) Regulations under section 4 may impose a duty on designated credit reference agencies to provide information received by virtue of section 4(1)(a) or (4)(b) to the Bank of England, and may allow or require the Bank of England to share that information with persons or for purposes specified or described in the regulations; but the regulations must include provision protecting the confidentiality of information so provided.
- (6) Regulations under section 4 may provide that a failure to comply with a duty imposed by virtue of section 4(1) may be actionable at the suit of a person who has suffered loss as a result of it (subject to the defences and other incidents applying to actions for breach of statutory duty).
- (7) Regulations under section 4 may provide that the following provisions apply to designated credit reference agencies in the same way as they apply to credit reference agencies within the meaning of those provisions—
- (a) sections 157 to 160 of the Consumer Credit Act 1974 (duties to disclose and correct information) and regulations made under those sections;
 - (b) section 7 of the Data Protection Act 1998 (right of access to personal data) and regulations made under that section;
 - (c) section 9 of the Data Protection Act 1998 (right of access to personal data where data controller is credit reference agency) and regulations made under that section.
- (8) Regulations under section 4 may provide a small or medium sized business with the right to apply to a court for an order to rectify, block, erase or destroy data held about the business by a designated credit reference agency.
- (9) Regulations under section 5 may impose a duty on designated finance platforms to provide statistical information to the Treasury.
- (10) Regulations under section 4 or 5 are subject to affirmative resolution procedure.