



Financial Services and Markets Act 2023

2023 CHAPTER 29

PART 6

MISCELLANEOUS

Other miscellaneous provisions

72 Liability of payment service providers for fraudulent transactions

- (1) The Payment Systems Regulator must prepare and publish a draft of a relevant requirement for reimbursement in such qualifying cases of payment orders as the Regulator considers should be eligible for reimbursement.
- (2) A case is a “qualifying case” for the purposes of this section if—
 - (a) the case relates to a payment order executed over the Faster Payments Scheme, and
 - (b) the payment order was executed subsequent to fraud or dishonesty.
- (3) The draft of the relevant requirement must—
 - (a) be published in the way appearing to the Payment Systems Regulator to be best calculated to bring it to the attention of the public;
 - (b) be accompanied by notice that representations about the proposed relevant requirement may be made to the Payment Systems Regulator within a specified time.
- (4) The duty imposed by subsection (1) must be carried out before the end of two months beginning with the day on which this section comes into force.
- (5) The Payment Systems Regulator must impose a relevant requirement, in whatever way and to whatever extent it considers appropriate, for reimbursement to be made in qualifying cases of payment orders.
- (6) In complying with the duty imposed by subsection (5) the Payment Systems Regulator must have regard to any representations made in accordance with subsection (3)(b).

Changes to legislation: There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Section 72. (See end of Document for details)

- (7) The duty imposed by subsection (5) must be carried out before the end of 6 months beginning with the day on which this section comes into force.
- (8) The duty under subsections (1) to (3), and under section 104(2) of the Financial Services (Banking Reform) Act 2013 in the application of that section to a relevant requirement imposed under subsection (5) of this section, may be satisfied by things done before (as well as after) this section comes into force.
- (9) Nothing in subsections (1) to (8) is to be taken as limiting the power of the Payment Systems Regulator—
- (a) to vary or revoke a relevant requirement imposed under the duty imposed by subsection (5), or
 - (b) to impose further relevant requirements (after that duty is complied with) in connection with reimbursement of payment orders executed subsequent to fraud or dishonesty.
- (10) In subsections (1) to (9)—
- “the Faster Payments Scheme” means the payment system, known as the Faster Payments Scheme, designated as a regulated payment system for the purposes of Part 5 of the Financial Services (Banking Reform) Act 2013 by order made by the Treasury in exercise of the power conferred by section 43(1) of that Act;
- “relevant requirement” means a requirement imposed by or under section 54 or 55 of the Financial Services (Banking Reform) Act 2013 (or by or under a combination of those sections).
- (11) In regulation 90 of the Payment Services Regulations 2017 ([S.I. 2017/752](#)) (liability of payment service providers for incorrect unique identifiers), after paragraph (5) insert—
- “(6) Nothing in this regulation affects the liability of a payment service provider under a relevant requirement in a case where the payment order is executed subsequent to fraud or dishonesty (and the requirements imposed by this regulation are subject to any such relevant requirements).
- (7) In this regulation, a “relevant requirement” means a requirement imposed by or under—
- (a) a direction given under regulation 125,
 - (b) a direction given under section 54 of the Financial Services (Banking Reform) Act 2013,
 - (c) a rule made under section 55 of that Act,
 - (d) an order made under section 56(3) of that Act, or
 - (e) a variation of an agreement under section 57(2) of that Act.”

Commencement Information

II [S. 72](#) in force at 29.8.2023, see [s. 86\(2\)\(i\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Financial Services and Markets Act 2023, Section 72.