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## STATUTORY INSTRUMENTS

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### 2009 No. 209

## The Payment Services Regulations 2009

### PART 5

#### INFORMATION REQUIREMENTS FOR PAYMENT SERVICES

##### *Application*

##### **Application of Part 5**

**33.**—(1) This Part applies to a contract for payment services where—

- (a) the services are provided from an establishment maintained by a payment service provider or its agent in the United Kingdom;
- (b) the payment service providers of both the payer and the payee are located within the EEA; and
- (c) the payment services are carried out either in euro or in the currency of an EEA State that has not adopted the euro as its currency.

(2) Regulations 36 to 39 apply to payment services provided under a single payment service contract.

(3) Regulations 40 to 46 apply to payment services provided under a framework contract.

(4) Except where the payment service user is—

- (a) a consumer,
- (b) a micro-enterprise, or
- (c) a charity,

the parties may agree that any or all of the provisions of this Part do not apply to a contract for payment services.

##### **Disapplication of certain regulations in the case of consumer credit agreements**

**34.** Where the contract under which a payment service is provided is, or would be, when entered into, a regulated agreement—

- (a) regulations 41, 42 and 43 do not apply;
- (b) the payment service provider is only required under regulation 40(1) to provide the information specified in paragraph 3(b) of Schedule 4; and
- (c) the payment service provider is only required under regulation 45(1) to provide the information specified in paragraph (2)(d) of regulation 45.

### **Disapplication of certain regulations in the case of low-value payment instruments**

**35.**—(1) This regulation applies in respect of payment instruments which, under the framework contract governing their use—

- (a) can be used only to execute individual payment transactions of 30 euro or less, or in relation to payment transactions executed wholly within the United Kingdom, 60 euro or less;
- (b) have a spending limit of 150 euro, or where payment transactions must be executed wholly within the United Kingdom, 300 euro; or
- (c) store funds that do not exceed 500 euro at any time.

(2) Where this regulation applies—

- (a) regulations 40 and 44 do not apply and the payment service provider is only required to provide the payer with information about the main characteristics of the payment service, including—
  - (i) the way in which the payment instrument can be used;
  - (ii) the liability of the payer, as set out in regulation 62;
  - (iii) charges levied;
  - (iv) any other material information the payer might need to take an informed decision; and
  - (v) an indication of where the information specified in Schedule 4 is made available in an easily accessible manner;
- (b) the parties may agree that regulations 45 and 46 do not apply and instead—
  - (i) the payment service provider must provide or make available a reference enabling the payment service user to identify—
    - (aa) the payment transaction;
    - (bb) the amount of the payment transaction;
    - (cc) any charges payable in respect of the payment transaction;
  - (ii) in the case of several payment transactions of the same kind made to the same payee, the payment service provider must provide or make available to the payment service user information about the total amount of the payment transactions and any charges for those payment transactions; or
  - (iii) where the payment instrument is used anonymously or the payment service provider is not otherwise technically able to provide or make available the information specified in paragraph (i) or (ii), the payment service provider must enable the payer to verify the amount of funds stored; and
- (c) the parties may agree that regulation 47(1) does not apply to information provided or made available in accordance with regulation 42.

### *Single payment service contracts*

### **Information required prior to the conclusion of a single payment service contract**

**36.**—(1) A payment service provider must provide or make available to the payment service user the information specified in paragraph (2), whether by supplying a copy of the draft single payment service contract or supplying a copy of the draft payment order or otherwise, either—

- (a) before the payment service user is bound by the single payment service contract; or

- (b) immediately after the execution of the payment transaction, where the contract is concluded at the payment service user's request using a means of distance communication which does not enable provision of such information in accordance with sub-paragraph (a).
- (2) The information referred to in paragraph (1) is—
  - (a) the information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;
  - (b) the maximum time in which the payment service will be executed;
  - (c) the charges payable by the payment service user to the user's payment service provider and, where applicable, a breakdown of the amounts of such charges;
  - (d) where applicable, the actual or reference exchange rate to be applied to the payment transaction; and
  - (e) such of the information specified in Schedule 4 as is relevant to the single payment service contract in question.

#### **Information required after receipt of the payment order**

**37.**—(1) The payer's payment service provider must, immediately after receipt of the payment order, provide or make available to the payer the information specified in paragraph (2).

- (2) The information referred to in paragraph (1) is—
  - (a) a reference enabling the payer to identify the payment transaction and, where appropriate, information relating to the payee;
  - (b) the amount of the payment transaction in the currency used in the payment order;
  - (c) the amount of any charges for the payment transaction payable by the payer and, where applicable, a breakdown of the amounts of such charges;
  - (d) where an exchange rate is used in the payment transaction and the actual rate used in the payment transaction differs from the rate provided in accordance with regulation 36(2)(d), the actual rate used or a reference to it, and the amount of the payment transaction after that currency conversion; and
  - (e) the date on which the payment service provider received the payment order.

#### **Information for the payee after execution**

**38.**—(1) The payee's payment service provider must, immediately after the execution of the payment transaction, provide or make available to the payee the information specified in paragraph (2).

- (2) The information referred to in paragraph (1) is—
  - (a) a reference enabling the payee to identify the payment transaction and, where appropriate, the payer and any information transferred with the payment transaction;
  - (b) the amount of the payment transaction in the currency in which the funds are at the payee's disposal;
  - (c) the amount of any charges for the payment transaction payable by the payee and, where applicable, a breakdown of the amount of such charges;
  - (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion; and
  - (e) the credit value date.

### **Avoidance of duplication of information**

**39.** Where a payment order for a single payment transaction is transmitted by way of a payment instrument issued under a framework contract, the payment service provider in respect of that single payment transaction need not provide or make available under regulations 36 to 38 information which has been provided or made available, or will be provided or made available, under regulations 40 to 45 by another payment service provider in respect of the framework contract.

### *Framework contracts*

### **Prior general information for framework contracts**

**40.—**(1) A payment service provider must provide to the payment service user the information specified in Schedule 4, either—

- (a) in good time before the payment service user is bound by the framework contract; or
- (b) where the contract is concluded at the payment service user's request using a means of distance communication which does not enable provision of such information in accordance with sub-paragraph (a), immediately after the conclusion of the contract.

(2) The payment service provider may discharge the duty under paragraph (1) by supplying a copy of the draft framework contract provided that such contract includes the information specified in Schedule 4.

### **Information during period of contract**

**41.** If the payment service user so requests at any time during the contractual relationship, the payment service provider must provide the information specified in Schedule 4 and the terms of the framework contract.

### **Changes in contractual information**

**42.—**(1) Subject to paragraph (4), any proposed changes to—

- (a) the existing terms of the framework contract; or
- (b) the information specified in Schedule 4,

must be communicated by the payment service provider to the payment service user no later than two months before the date on which they are to take effect.

(2) The framework contract may provide for any such proposed changes to be made unilaterally by the payment service provider where the payment service user does not, before the proposed date of entry into force of the changes, notify the payment service provider to the contrary.

(3) Where paragraph (2) applies, the payment service provider must inform the payment service user that—

- (a) the payment service user will be deemed to have accepted the changes in the circumstances referred to in that paragraph; and
- (b) the payment service user has the right to terminate the framework contract immediately and without charge before the proposed date of their entry into force.

(4) Changes in the interest or exchange rates may be applied immediately and without notice where—

- (a) such a right is agreed under the framework contract and the changes are based on the reference interest or exchange rates information on which has been provided to the payment service user in accordance with this Part; or

(b) the changes are more favourable to the payment service user.

(5) The payment service provider must inform the payment service user of any change to the interest rate as soon as possible unless the parties have agreed on a specific frequency or manner in which the information is to be provided or made available.

(6) Any change in the interest or exchange rate used in payment transactions must be implemented and calculated in a neutral manner that does not discriminate against payment service users.

### **Termination of framework contract**

**43.**—(1) The payment service user may terminate the framework contract at any time unless the parties have agreed on a period of notice not exceeding one month.

(2) Subject to paragraph (3), any charges for the termination of the contract must reasonably correspond to the actual costs to the payment service provider of termination.

(3) The payment service provider may not charge the payment service user for the termination, after the expiry of 12 months, of a framework contract concluded for a fixed period of more than 12 months or for an indefinite period.

(4) The payment service provider may terminate a framework contract concluded for an indefinite period by giving at least two months' notice, if the contract so provides.

(5) Notice of termination given in accordance with paragraph (4) must be provided in the same way as information is required by regulation 47(1) to be provided or made available.

(6) Where charges for the payment service are levied on a regular basis, such charges must be apportioned up until the time of the termination of the contract and any charges paid in advance must be reimbursed proportionally.

(7) This regulation does not affect any right of a party to the framework contract to treat it as unenforceable or void (including any right arising out of a breach of the contract).

### **Information prior to execution of individual payment transaction**

**44.** Where an individual payment transaction under a framework contract is initiated by the payer, at the payer's request the payer's payment service provider must inform the payer of—

- (a) the maximum execution time;
- (b) the charges payable by the payer in respect of the payment transaction; and
- (c) where applicable, a breakdown of the amounts of such charges.

### **Information for the payer on individual payment transactions**

**45.**—(1) The payer's payment service provider under a framework contract must provide to the payer the information specified in paragraph (2) as soon as reasonably practicable either—

- (a) after the amount of an individual payment transaction is debited from the payer's payment account; or
- (b) where the payer does not use a payment account, after receipt of the payment order.

(2) The information referred to in paragraph (1) is—

- (a) a reference enabling the payer to identify each payment transaction and, where appropriate, information relating to the payee;
- (b) the amount of the payment transaction in the currency in which the payer's payment account is debited or in the currency used for the payment order;
- (c) the amount of any charges for the payment transaction and, where applicable, a breakdown of the amounts of such charges, or the interest payable by the payer;

- (d) where applicable, the exchange rate used in the payment transaction by the payer's payment service provider and the amount of the payment transaction after that currency conversion; and
- (e) the debit value date or the date of receipt of the payment order.

(3) A framework contract may include a condition that the information specified in paragraph (2) be provided or made available periodically at least once a month and in an agreed manner which enables the payer to store and reproduce the information unchanged.

### **Information for the payee on individual payment transactions**

**46.—**(1) As soon as reasonably practicable after the execution of an individual payment transaction under a framework contract, the payee's payment service provider must provide to the payee the information specified in paragraph (2).

(2) The information referred to in paragraph (1) is-

- (a) a reference enabling the payee to identify the payment transaction and, where appropriate, the payer, and any information transferred with the payment transaction;
- (b) the amount of the payment transaction in the currency in which the payee's payment account is credited;
- (c) the amount of any charges for the payment transaction and, where applicable, a breakdown of the amounts of such charges, or the interest payable by the payee;
- (d) where applicable, the exchange rate used in the payment transaction by the payee's payment service provider, and the amount of the payment transaction before that currency conversion; and
- (e) the credit value date.

(3) A framework contract may include a condition that the information specified in paragraph (2) is to be provided or made available periodically at least once a month and in an agreed manner which enables the payee to store and reproduce the information unchanged.

### *Common provisions*

#### **Communication of information**

**47.—**(1) Subject to regulation 35(2)(c), any information provided or made available in accordance with this Part must be provided or made available—

- (a) in an easily accessible manner;
- (b) if the payment service user so requests, on paper or on another durable medium;
- (c) in easily understandable language and in a clear and comprehensible form; and
- (d) in English or in the language agreed by the parties.

(2) Paragraph (1)(b) is subject to any agreement in accordance with regulation 45(3) or 46(3) as to the manner in which information is to be provided or made available.

#### **Charges for information**

**48.—**(1) A payment service provider may not charge for providing or making available information which is required to be provided or made available by this Part.

(2) The payment service provider and the payment service user may agree on charges for any information which is provided at the request of the payment service user where such information is—

- (a) additional to the information required to be provided or made available by this Part;
- (b) provided more frequently than is specified in this Part; or
- (c) transmitted by means of communication other than those specified in the framework contract.

(3) Any charges imposed under paragraph (2) must reasonably correspond to the payment service provider's actual costs.

#### **Currency and currency conversion**

**49.**—(1) Payment transactions must be executed in the currency agreed between the parties.

(2) Where a currency conversion service is offered before the initiation of the payment transaction—

- (a) at the point of sale; or
- (b) by the payee,

the party offering the currency conversion service to the payer must disclose to the payer all charges as well as the exchange rate to be used for converting the payment transaction.

#### **Information on additional charges or reductions**

**50.**—(1) The payee must inform the payer of any charge requested or reduction offered by the payee for the use of a particular payment instrument before the initiation of the payment transaction.

(2) The payment service provider, or any relevant third party, must inform the payment service user of any charge requested by the payment service provider or third party, as the case may be, for the use of a particular payment instrument before the initiation of the payment transaction.