

SCHEDULE 5

Application and modification of legislation

PART 1

Application and modification of the 2000 Act

Information gathering and investigations

3. Part 11 of the 2000 Act (information gathering and investigations) applies with the following modifications—

- (a) in section 165 (Authority’s power to require information)—
 - (i) for references to “an authorised person” substitute “an authorised payment institution, an EEA authorised payment institution or a small payment institution”;
 - (ii) in subsection (4), for “this Act” substitute “the Payment Services Regulations 2009”;
and
 - (iii) in subsection (7) omit paragraphs (b) and (c);
- (b) in subsection (2)(a) of section 166 (reports by skilled persons), for “an authorised person” substitute “an authorised payment institution, an EEA authorised payment institution or a small payment institution”;
- (c) in section 167(1) (appointment of persons to carry out general investigations)—
 - (i) in subsection (1)—
 - (aa) omit “or the Secretary of State”;
 - (bb) in paragraph (a) for “a recognised investment exchange or an authorised person or of an appointed representative” substitute “an authorised payment institution, an EEA authorised payment institution or a small payment institution”;
 - (cc) in paragraph (c) for “a recognised investment exchange or an authorised person” substitute “an authorised payment institution, an EEA authorised payment institution or a small payment institution”;
 - (ii) in subsection (4)—
 - (aa) for “in relation to a former authorised person (or appointed representative)” substitute “in relation to a former authorised payment institution, former EEA authorised payment institution or former small payment institution”;
 - (bb) in paragraph (a) for “he was an authorised person (or appointed representative)” substitute “it was an authorised payment institution, EEA authorised payment institution or small payment institution”;
 - (cc) for paragraph (b) substitute—
 - “(b) the ownership or control of a former authorised payment institution, former EEA authorised payment institution or former small payment institution at any time when it was an authorised payment institution, EEA authorised payment institution or small payment institution, as the case may be.”;
 - (iii) in subsection (5) for “regulated activities” substitute “payment services”; and

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- (iv) omit subsection (6);
- (d) in section 168(2) (appointment of persons to carry out investigations in particular cases)—
 - (i) in subsection (1)—
 - (aa) in paragraph (a) for “any regulation made under section 142” substitute “any requirement of or imposed under the Payment Services Regulations 2009”;
 - (bb) in paragraph (b) for “191” to the end substitute “or under regulation 110, 111, 113 or 114 of the Payment Services Regulations 2009”;
 - (ii) for subsection (2) substitute—

“(2) Subsection (3) also applies if it appears to an investigating authority that there are circumstances suggesting that a person may be guilty of an offence under, or has contravened a requirement of, the Money Laundering Regulations 2007.”;
 - (iii) omit subsections (4) and (5); and
 - (iv) in subsection (6) omit “or the Secretary of State”;
- (e) in section 169 (investigations etc in support of overseas regulator)—
 - (i) in subsection (8) for “Part XXIII” substitute “sections 348, 349, 351 and 352, as applied with modifications by the Payment Services Regulations 2009”; and
 - (ii) in subsection (13) for “has the same meaning as in section 195” substitute “means a competent authority designated in accordance with Article 20 of the payment services directive”;
- (f) in section 170 (investigations: general)—
 - (i) in subsection (1) omit “or (5)”;
 - (ii) in subsection (3)(a) omit “or (4)”;
 - (iii) for subsection (10) substitute—

“(10) “Investigating authority” in relation to an investigator means the Authority.”;
- (g) in section 171(3) (powers of persons appointed under section 167), omit subsections (3A) and (7);
- (h) in subsection (4) of section 172 (additional power of persons appointed as a result of section 168(1) or (4)), omit “or (4)”;
- (i) in section 174 (admissibility of statements made to investigators)—
 - (i) in subsection (2) omit “or in proceedings in relation to action to be taken against that person under section 123”;
 - (ii) in subsection (3)(a) for “398” substitute “regulation 114 of the Payment Services Regulations 2009”; and
 - (iii) in subsection (4) omit “or (5)”;
- (j) in subsection (8) of section 175 (information and documents: supplemental provisions) omit “or (5)”;
- (k) in section 176(4)(entry of premises under warrant)—
 - (i) in subsection (1)—
 - (aa) omit “the Secretary of State,”; and

(2) Amended by [S.I. 2007/126](#).
 (3) Amended by [S.I. 2007/126](#).
 (4) Amended by [S.I. 2005/1433](#).

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- (bb) for “the first, second or third” substitute “the first or second”;
- (ii) in subsection (3)(a) for “an authorised person or an appointed representative” substitute “an authorised payment institution, a small payment institution or an EEA authorised payment institution”;
- (iii) omit subsection (4);
- (iv) in subsection (10) omit “or (5)”;
- (v) in subsection (11)(a) omit “87C, 87J,”; and
- (l) in subsection (5)(a) of section 177 (offences), for “six months” substitute “three months”.