

SCHEDULE 8

Amendments to legislation

PART 3

Amendments to other secondary legislation

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

6. In the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(1)—
- (a) in article 2(1)—
 - (i) for “Payment Services Regulations 2009” in each place it appears substitute “Payment Services Regulations 2017”;
 - (ii) in the appropriate place, insert—
 - ““registered account information service provider” has the meaning given by regulation 2(1) of the Payment Services Regulations 2017;”;
 - (b) in article 4(1)(d)(xv)—
 - (i) after “an authorised payment institution” insert “, a registered account information service provider”;
 - (ii) for “2009” substitute “2017”.

Individual Savings Account Regulations 1998

7. In regulation 2(1)(b) of the Individual Savings Account Regulations 1998 (interpretation)(2), in the definition of “insolvency event” for “regulation 19(15) of the Payment Services Regulations 2009” substitute “regulation 23(18) of the Payment Services Regulations 2017”.

Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

8. In the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(3)—
- (a) In article 9AB(2) (funds received for payment services) for “2009” substitute “2017”;
 - (b) in article 60JA (payment institutions)—
 - (i) in paragraph (1) for “16(3)” substitute “18(4)”;
 - (ii) in paragraph (2) for “2009” substitute “2017”;
 - (c) in article 60JB (electronic money institutions), in paragraph (1) for “16(3)” substitute “18(4)”.

Child Trust Funds Regulations 2004

9. In regulation 2(1)(c) of the Child Trust Funds Regulations 2004 (interpretation)(4), in the definition of “insolvency event” for “regulation 19(15) of the Payment Services Regulations 2009” substitute “regulation 23(18) of the Payment Services Regulations 2017”.

(1) S.I. 1975/1023, as amended by S.I. 2011/1800, 2013/472 and other instruments that are not relevant here.

(2) S.I. 1998/1870, as amended by S.I. 2011/1780 and other instruments that are not relevant here.

(3) S.I. 2001/544. Article 9AB was inserted by S.I. 2009/209 and amended by S.I. 2011/99. Articles 60JA and 60JB were inserted by S.I. 2014/366.

(4) S.I. 2004/1450, as amended by S.I. 2010/582 and other instruments that are not relevant here.

Status: This is the original version (as it was originally made).

Financial Services (Distance Marketing) Regulations 2004

10. In the Financial Services (Distance Marketing) Regulations 2004⁽⁵⁾—
- (a) in regulation 7(1A) (information required prior to the conclusion of the contract) for “2009” substitute “2017”;
 - (b) in regulation 8(1A) (written and additional information) for “2009” substitute “2017”.

Investment Bank Special Administration Regulations 2011

11. In Schedule 6 to the Investment Bank Special Administration Regulations 2011 (modifications and consequential amendments)⁽⁶⁾, in the entry for the Payment Services Regulations 2009 in the list after paragraph 1, for “2009” substitute “2017”.

Consumer Rights (Payment Surcharges) Regulations 2012

12.—(1) The Consumer Rights (Payment Surcharges) Regulations 2012⁽⁷⁾ are amended as follows.

- (2) In regulation 1 (citation and commencement)—
 - (a) in paragraph (2) for “These Regulations apply” substitute “Regulation 4 (fees a trader must not charge a consumer) applies”;
 - (b) after paragraph (2) insert—

“(3) Regulation 6A applies in relation to contracts entered into after the date on which the Payment Services Regulations 2017 were made.”.
- (3) In regulation 3 (other definitions) after the definition of “goods” insert—

““payee”, “payer”, “payment instrument”, “payment service” and “payment service provider” have the meanings given in regulation 2(1) of the Payment Services Regulations 2017;”.
- (4) For the heading of regulation 4 (excessive charges prohibited) substitute “Fees a trader must not charge a consumer”.
- (5) In the heading of regulation 5 (contracts where prohibition applies) for “prohibition” substitute “regulation 4”.
- (6) After regulation 6 (temporary exemption for micro-businesses and new businesses) insert—

“Fees any payee must not charge any payer

- 6A.—(1) A payee must not charge a payer any fee in respect of payment by means of—
- (a) a payment instrument which—
 - (i) is a card-based payment instrument as defined in Article 2(20) of Regulation (EU) 2015/751 of the European Parliament and of the Council of 29th April 2015 on interchange fees for card-based payment transactions⁽⁸⁾; and
 - (ii) is not a commercial card as defined in Article 2(6) of that Regulation; or
 - (b) a payment instrument which—
 - (i) is not a card-based payment instrument as defined in Article 2(20) of that Regulation; and

⁽⁵⁾ S.I. 2004/2095, as amended by S.I. 2009/209 and other instruments that are not relevant here.

⁽⁶⁾ S.I. 2011/245. There have been amendments but none is relevant here.

⁽⁷⁾ S.I. 2012/3110, amended by S.I. 2013/761 and 3134 and 2014/549.

⁽⁸⁾ OJ L 123, 19.5.2015, p.1.

- (ii) would not fall within the definition of commercial card at Article 2(6) of that Regulation if, in that definition, the reference to any card-based payment instrument were to any payment instrument and the reference to such cards were to such payment instruments; or
 - (c) a payment service to which Regulation (EU) 260/2012 of the European Parliament and of the Council of 14th March 2012 establishing technical and business requirements for credit transfers and direct debits in euro⁽⁹⁾ applies.
- (2) A payee receiving a payment by means of a payment instrument must not charge the payer, in respect of such payment, a fee which exceeds the costs borne by the payee for the use of that specific payment instrument.

Application of regulation 6A

6B.—(1) Regulation 6A applies only if the payment service provider of the payer or the payment service provider of the payee is located in an EEA state.

(2) Where the payment service providers of both the payee and the payer are located in an EEA state, regulation 6A(1) and (2) apply.

(3) Where the payment service provider of either the payer or the payee, but not both, is located in an EEA state, regulation 6A(2) applies but regulation 6A(1) does not apply.”

(7) In regulations 7(1) and (4) (complaints), 8(1) and (2) (orders to secure compliance) and 9(a) (notification of undertakings and orders to the CMA) after “regulation 4” insert “or 6A”.

(8) In regulation 10 (consumer’s right of redress)—

- (a) in the heading for “Consumer’s right” substitute “Right”;
- (b) after “regulation 4” insert “or any payee charges a fee in contravention of regulation 6A”;
- (c) in paragraph (a)—
 - (i) for “consumer to pay” substitute “payment of”;
 - (ii) for “of the excess charged” substitute “that the charging of the fee contravenes regulation 4 or 6A”;
- (d) in paragraph (b) for “excess to be repaid to the consumer” substitute “fee to be repaid to the extent that the charging of the fee contravenes regulation 4 or 6A”.

Postal Services Act 2011 (Disclosure of Information) Order 2012

13. In article 4 of the Postal Services Act 2011 (Disclosure of Information) Order 2012⁽¹⁰⁾ (prescription of enactments), in the entry for the Payment Services Regulations 2009, for “2009” substitute “2017”.

Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012

14. In regulation 2(1) of the Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012⁽¹¹⁾, in the final definition (definition of “payment services”, “payment service provider”, “payment service user” and “payment system”) for “2009” substitute “2017”.

⁽⁹⁾ OJ L 94, 30.3.2012, p.22.

⁽¹⁰⁾ S.I. 2012/1128. There have been amendments to article 4 but none is relevant here.

⁽¹¹⁾ S.I. 2012/3122. Regulation 2(1) was amended by S.I. 2013/472.

Payment to Treasury of Penalties (Enforcement Costs) Order 2013

15. In article 2(1) of the Payment to Treasury of Penalties (Enforcement Costs) Order 2013 (enforcement powers)(**12**), for sub-paragraph (g) substitute—

“(g) regulations 110, 111, 113, 114 and 116 of the Payment Services Regulations 2017,”.

Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014

16. In article 2(b) of the Financial Services Act 2012 (Relevant Functions in relation to Complaints Scheme) Order 2014 (relevant functions of the FCA)(**13**)—

- (a) for “2009” substitute “2017”; and
- (b) for “regulation 93” substitute “regulation 120”.

Communications Act 2003 (Disclosure of Information) Order 2014

17. In article 3(e) of the Communications Act 2003 (Disclosure of Information) Order 2014 (specification of relevant functions)(**14**) for “2009” substitute “2017”.

Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014

18. In regulation 1(4) of the Financial Services and Markets Act 2000 (Excluded Activities and Prohibitions) Order 2014(**15**) (interpretation), in the definition of “payment services” for “2009” substitute “2017”.

Public Interest Disclosure (Prescribed Persons) Order 2014

19. In the Schedule to the Public Interest Disclosure (Prescribed Persons) Order 2014(**16**), in paragraph (e) of the entry for the Financial Conduct Authority for “payment services regulations 2009” substitute “Payment Services Regulations 2017”.

Enterprise Act 2002 (Part 8 EU Infringements) Order 2014

20. In the Enterprise Act 2002 (Part 8 EU Infringements) Order 2014(**17**)—

- (a) in article 4 for “the listed Directive” substitute “a Directive, or provisions of a Directive, listed in the Schedule”;
- (b) in the Schedule (listed directive)—
 - (i) in the heading of the Schedule for “DIRECTIVE” substitute “DIRECTIVES”;
 - (ii) in the heading of the first column in the table for “Directive” substitute “Directives”;
 - (iii) in the first column of the table after “[Directive 97/7/EC](#) of the European Parliament and the Council” insert—
“; and

Paragraphs 4 and 5 and the second sentence of paragraph 3 of Article 62 of [Directive 2015/2366/EU](#) of the European Parliament and of the Council of 25th November

(12) [S.I. 2013/418](#). There have been amendments to article 2 but none is relevant here.

(13) [S.I. 2014/1195](#).

(14) [S.I. 2014/1825](#).

(15) [S.I. 2014/2080](#). There are several amendments to regulation 1(4) but none is relevant here.

(16) [S.I. 2014/2418](#).

(17) [S.I. 2014/2908](#).

2015 on payment services in the internal market, amending Directives [2002/65/EC](#), [2009/110/EC](#) and [2013/36/EU](#) and Regulation (EU) No. 1093/2010, and repealing [Directive 2007/64/EC](#)(18)

(iv) in the second column of the table after “Regulations 4,” insert “6A, 6B,”.

Payment to Treasury of Penalties (Enforcement Costs of the Payment Systems Regulator) Order 2015

21. In the Payment to Treasury of Penalties (Enforcement Costs of the Payment Systems Regulator) Order 2015(19)—

- (a) in article 1(2) (citation, commencement and interpretation) omit the definition of “the 2009 Regulations”;
- (b) in article 2 (enforcement powers) omit paragraph (d);
- (c) in article 3 (relevant offences) omit paragraph (c).

Mortgage Credit Directive Order 2015

22. In article 26 of the Mortgage Credit Directive Order 2015 (extension of the compulsory jurisdiction of the Financial Ombudsman Scheme to registered consumer buy-to-let mortgage firms)(20), in paragraph (1)(a) for “2009” substitute “2017”.

Small and Medium Sized Business (Credit Information) Regulations 2015

23. In regulation 17 of the Small and Medium Sized Business (Credit Information) Regulations 2015 (extension of the jurisdiction of the Financial Ombudsman Scheme to designated credit reference agencies)(21), in paragraph (1)(a), (d) and (e) for “2009” substitute “2017”.

Small and Medium Sized Business (Finance Platforms) Regulations 2015

24. In regulation 14 of the Small and Medium Sized Business (Finance Platforms) Regulations 2015 (extension of the jurisdiction of the Financial Ombudsman Scheme to designated finance platforms)(22), in paragraph (1)(a), (d) and (e) for “2009” substitute “2017”.

Payment Accounts Regulations 2015

25. In the Payment Accounts Regulations 2015(23)—

- (a) in regulation 2(1) (interpretation), in the definition of “Payment Services Regulations” for “2009” substitute “2017”;
- (b) in regulation 8 (fee information document), in paragraph (1)(a) for “Part 5 (information requirements for payment systems)” substitute “Part 6 (information requirements for payment services)”;
- (c) in regulation 10 (statement of fees), in paragraph (1) for “Part 5” substitute “Part 6”;
- (d) in Schedule 3 (switching service)—
 - (i) in paragraph 4(1)(e) for “regulation 43” substitute “regulation 51”;
 - (ii) in paragraph 5(3) for “regulation 56(2)” substitute “regulation 71(2)”;

(18) OJ L 337 23.12.2015, p.35.

(19) S.I. 2015/487.

(20) S.I. 2015/910.

(21) S.I. 2015/1945.

(22) S.I. 2015/1946.

(23) S.I. 2015/2038

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

- (iii) in paragraph 6(3) for “regulation 43” substitute “regulation 51”;
- (e) in Schedule 5 (fees connected with alternative arrangements etc.), in paragraph 3(2) for “regulation 43” substitute “regulation 51”.

Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

26. In the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017~~(24)~~—

- (a) in regulation 3(1) (general interpretation), in the definitions of “payment services” and “payment service provider” for “2009” substitute “2017”;
- (b) in regulation 53 (interpretation), in the definition of “telecommunication, digital and IT payment service provider” for the words from “falling within” to the end substitute “consisting of the execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator acting only as an intermediary between the payment service user and the supplier of the goods and services (and terms used in this definition which are defined in the Payment Services Regulations 2017 have the meanings given in those Regulations).”;
- (c) in regulation 60(5) (cancellation and suspension of registration)—
 - (i) in sub-paragraph (b) for “2009” substitute “2017”;
 - (ii) in sub-paragraph (c)(i)—
 - (aa) for “(c) to (h)” substitute “(d) to (j)”;
 - (bb) for “2009” substitute “2017”;
 - (iii) in sub-paragraph (c)(ii) for “121” substitute “154(2)”;
- (d) in regulation 62(1) (transfer of funds supervisory authorities), in sub-paragraphs (b) and (c) for “2009” substitute “2017”;
- (e) in regulation 77(2) (power to impose civil penalties: suspension and removal of authorisation), in paragraphs (a)(ii) and (iii) and (b)(ii) and (iii) for “2009” substitute “2017”;
- (f) in regulation 105 (disclosure by the Commissioners), in paragraphs (1) and (2)(c) for “2009” substitute “2017”.

(24) S.I. 2017/692.