



Banking Act 2009

2009 CHAPTER 1

PART 5

^{F1}... PAYMENT SYSTEMS [^{F1}AND SERVICE PROVIDERS]

Miscellaneous

203 Fees

- (1) The Bank of England may require operators of recognised ^{F1}... payment systems [^{F2}, recognised DSA service providers,][^{F3}, and service providers in relation to such systems [^{F4}or such DSA service providers],] to pay fees.
- (2) A requirement under subsection (1) must relate to a scale of fees approved by the Treasury by regulations.
- (3) Regulations under subsection (2)—
 - (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A requirement under subsection (1) may be enforced by the Bank as a debt.

Textual Amendments

- F1** Word in s. 203(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), [Sch. 9 para. 25](#)
- F2** Words in s. 203(1) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2) (a), [Sch. 6 para. 32\(a\)](#)
- F3** Words in s. 203(1) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), [2\(24\)](#)
- F4** Words in s. 203(1) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2) (a), [Sch. 6 para. 32\(b\)](#)

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Commencement Information

- II** S. 203 in force at 12.11.2009 for specified purposes and 31.12.2009 in so far as not already in force by S.I. 2009/3000, arts. 2, 4, **Sch. para. 3**

[^{F5}203A Records

- (1) The Bank of England must maintain satisfactory arrangements for—
 - (a) recording decisions made in the exercise of its functions under this Part, and
 - (b) the safe-keeping of those records which it considers ought to be preserved.
- (2) The duty in subsection (1) does not apply to a decision to issue a notice under section 204(1).

Textual Amendments

- F5** Ss. 203A, 203B inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(8)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

203B Annual report

- (1) At least once a year the Bank of England must make a report to the Treasury on—
 - (a) the discharge of its functions under this Part,
 - (b) the extent to which, in its opinion, in discharging those functions its financial stability objective has been met, and
 - (c) such other matters as the Treasury may from time to time direct.
- (2) Subsection (1) does not require the inclusion in the report of any information whose publication would in the opinion of the Bank of England be against the public interest.
- (3) The Treasury must lay before Parliament a copy of each report received by them under this section.]

Textual Amendments

- F5** Ss. 203A, 203B inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(8)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)

[^{F6}203C Policy statement

- (1) The Bank of England must prepare a statement of the general policy it proposes to follow in relation to its oversight under this Part of —
 - (a) recognised payment systems that include arrangements using digital settlement assets,
 - (b) DSA service providers, and
 - (c) service providers as described in sections 206A and 206AA.
- (2) Before issuing a statement of policy under this section, the Bank must consult the FCA.
- (3) The Bank must —
 - (a) publish the statement on its website,

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- (b) send a copy to the Treasury, and
 - (c) review the statement from time to time and revise it if necessary (and paragraphs (a) and (b) apply to a revision).
- (4) Nothing in this section is to be regarded as preventing the Bank of England from exercising any of its powers under this Part where it considers it necessary to do so by reason of urgency, before it has prepared a statement under this section.]

Textual Amendments

F6 S. 203C inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 33](#)

204 Information

- (1) The Bank of England may by notice in writing require a person to provide information—
- (a) which the Bank thinks will help the Treasury in determining whether to make a recognition order ^{F7}or an order under section 206A^{F8}, or to specify a person under section 206A(2)(b)^{F9} or 206A(2A)(b), or
 - (b) which the Bank otherwise requires in connection with its functions under this Part.

^{F10}(1A) The Bank of England may by notice in writing require the operator of a recognised ^{F11}... payment system ^{F12}, a recognised DSA service provider,^{F13} or a service provider in relation to such a system^{F14} or such a DSA service provider] to provide information which the Bank requires in connection with the exercise of its functions (whether under this Part or otherwise) in pursuance of its financial stability objective.]

- (2) In particular, a notice ^{F15}under subsection (1) or (1A)] may require the operator of a recognised ^{F16}... payment system ^{F17}, a recognised DSA service provider,^{F18} or a service provider in relation to such a system^{F19} or such a DSA service provider] to notify the Bank if events of a specified kind occur.

- (3) A notice ^{F20}under subsection (1) or (1A)] may require information to be provided—
- (a) in a specified form or manner;
 - (b) at a specified time;
 - (c) in respect of a specified period.

- (4) The Bank may disclose information obtained by virtue of this section to—

- (a) the Treasury;
- ^{F21}(b) the FCA;
- ^{F22}(ba)]
- (c) an authority in a country or territory outside the United Kingdom which exercises functions similar to those of the Treasury, the Bank of England ^{F23}, the FCA or the PRA] in relation to ^{F24}... payment systems;
- ^{F25}(d)
- (e) the Bank for International Settlements.

- (5) Subsection (4)—

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- (a) overrides a contractual or other requirement to keep information in confidence, and
 - (b) is without prejudice to any other power to disclose information.
- (6) The Treasury may by regulations permit the disclosure of information obtained by virtue of this section to a specified person.
- (7) The Bank may publish information obtained by virtue of this section.
- (8) The Treasury may make regulations about the manner and extent of publication under subsection (7).
- (9) Regulations under this section—
- (a) shall be made by statutory instrument, and
 - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) It is an offence—
- (a) to fail without reasonable excuse to comply with a requirement under this section;
 - (b) knowingly or recklessly to give false information in pursuance of this section.
- (11) A person guilty of an offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
 - (b) on conviction on indictment, to a fine.

Textual Amendments

- F7** Words in s. 204(1)(a) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), s. 26(1)(l), **Sch. 2 para. 45**
- F8** Words in s. 204(1)(a) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(25)(a)**
- F9** Words in s. 204(1)(a) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 34(2)**
- F10** S. 204(1A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(9)(a)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F11** Word in s. 204(1A) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), **Sch. 9 para. 26**
- F12** Words in s. 204(1A) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 34(3)(a)**
- F13** Words in s. 204(1A) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(25)(b)**
- F14** Words in s. 204(1A) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 34(3)(b)**
- F15** Words in s. 204(2) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 104(9)(b)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F16** Word in s. 204(2) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), **Sch. 9 para. 26**
- F17** Words in s. 204(2) inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), **Sch. 6 para. 34(4)(a)**
- F18** Words in s. 204(2) inserted (30.11.2017) by [The Banking Act 2009 \(Service Providers to Payment Systems\) Order 2017 \(S.I. 2017/1167\)](#), arts. 1(2), **2(25)(b)**

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- F19** Words in s. 204(2) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 34(4)(b)**
- F20** Words in s. 204(3) inserted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(9)(b)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F21** S. 204(4)(b)(ba) substituted for s. 204(4)(b) (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(9)(c)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F22** S. 204(4)(ba) omitted (1.3.2017) by virtue of Bank of England and Financial Services Act 2016 (c. 14), s. 41(3), **Sch. 2 para. 60** (with Sch. 3); S.I. 2017/43, reg. 2(g)
- F23** Words in s. 204(4)(c) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(9)(d)**, 122(3) (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F24** Word in s. 204(4)(c) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 26**
- F25** S. 204(4)(d) omitted (31.12.2020) by virtue of The Electronic Money, Payment Services and Payment Systems (Amendment and Transitional Provisions) (EU Exit) Regulations 2018 (S.I. 2018/1201), reg. 1(3), **Sch. 1 para. 1** (with reg. 4); 2020 c. 1, Sch. 5 para. 1(1)

Commencement Information

- I2** S. 204(1)(a)(2)(3)(4)(a)(b)(5)(6)(8)-(11) in force at 4.8.2009 by S.I. 2009/2038, art. 2, **Sch. para. 4**
- I3** S. 204(1)(b)(4)(c)(4)(d)(4)(e)(7) in force at 31.12.2009 by S.I. 2009/3000, art. 4, **Sch. para. 4**

205 Pretending to be recognised

- (1) It is an offence for the operator of a non-recognised ^{F26}... payment system [^{F27}or DSA service provider]—
- (a) to assert that the system [^{F28}or provider] is recognised, or
- (b) to do anything which suggests that the system [^{F29}or provider] is recognised.

- [^{F30}(1A) It is an offence for a person who is not a service provider in relation to a recognised payment system [^{F31}or recognised DSA service provider]—
- (a) to assert that the person is such a service provider, or
- (b) to do anything which suggests that the person is such a service provider.]
- (2) A person guilty of an offence is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum, or
- (b) on conviction on indictment, to a fine.

Textual Amendments

- F26** Word in s. 205(1) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 27**
- F27** Words in s. 205(1) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 35(2)**
- F28** Words in s. 205(1)(a) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 35(3)**
- F29** Words in s. 205(1)(b) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 35(4)**
- F30** S. 205(1A) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(26)**
- F31** Words in s. 205(1A) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 35(5)**

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Commencement Information

I4 S. 205 in force at 4.8.2009 by S.I. 2009/2038, art. 2, **Sch. para. 5**

206 Saving for informal oversight

- (1) Nothing in this Part prevents the Bank of England from having dealings with the operators of payment systems [^{F32}, DSA service providers][^{F33}, or persons who provide services in relation to payment systems,][^{F34} or DSA service providers] to which this Part does not apply.
- (2) Nothing in this Part prevents the Bank from having dealings, other than through the provisions of this Part, with the operators of payment systems [^{F35}, DSA service providers][^{F36}, or persons who provide services in relation to payment systems,][^{F37} or DSA service providers] to which this Part does apply.

Textual Amendments

- F32** Words in s. 206(1) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 36(2)(a)**
- F33** Words in s. 206(1) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(27)**
- F34** Words in s. 206(1) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 36(2)(b)**
- F35** Words in s. 206(2) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 36(3)(a)**
- F36** Words in s. 206(2) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(27)**
- F37** Words in s. 206(2) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2) (a), **Sch. 6 para. 36(3)(b)**

Commencement Information

I5 S. 206 in force at 31.12.2009 by S.I. 2009/3000, art. 4, **Sch. para. 5**

206A [^{F38}Service providers]

- (1) The Treasury may by order make provision applying any provision of this Part to ^{F39}... service providers—
 - [^{F40}(a)] in relation to a recognised ^{F41}... payment system [^{F42}, or
 - (b) in relation to a recognised DSA service provider.]
 - (2) A person is a service provider in relation to a recognised ^{F43}... payment system if—
 - (a) the person provides services that form part of the arrangements constituting the system, and
 - (b) the person is specified as a person within paragraph (a) by the Treasury in the recognition order made in respect of the system.
- [^{F44}(2A) A person is a service provider in relation to a recognised DSA service provider if—
- (a) the person provides services to the recognised DSA service provider, and
 - (b) the person is specified as a person within paragraph (a) by the Treasury in the recognition order made in respect of the DSA service provider.

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- (2B) A payment system that includes arrangements using digital settlement assets is a service provider in relation to a recognised DSA service provider if—
- (a) the system provides services to the recognised DSA service provider, and
 - (b) the system is specified as a system within paragraph (a) by the Treasury in the recognition order made in respect of the DSA service provider.]

- (3) Telecommunication or information technology services are examples of the kind of services that may fall within subsection (2)(a).

[^{F45}(3A) In relation to a recognised payment system that includes arrangements using digital settlement assets, subsection (2)(a) includes a person providing services connected with the system. See section 206AA.]

- (4) Before specifying persons under subsection (2)(b) [^{F46}or (2A)(b) or systems under subsection (2B)(b)], the Treasury must—

- (a) consult the Bank of England [^{F47}, the Payment Systems Regulator]^[^{F48}, the FCA and the PRA],
- (b) notify the operator of the system [^{F49}or DSA service provider] and the persons whom the Treasury proposes to specify, and
- (c) consider any representations made.

- (5) The Treasury may not specify the Bank of England under subsection (2)(b) [^{F50}, (2A)(b) or (2B)(b)].

- (6) Before making an order under subsection (1), the Treasury must consult—

- (a) the Bank of England,
- [^{F51}(b) the FCA,
- (ba) the PRA, and]
- (c) such other persons as the Treasury consider appropriate.

- (7) An order under subsection (1)—

- (a) may modify any provision of this Part in its application to persons who are service providers in relation to a recognised ^{F52}... payment system;
- (b) may (but need not) take the form of textual amendment.

- (8) An order under subsection (1)—

- (a) is to be made by statutory instrument, and
- (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

F38 S. 206A heading substituted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 37\(2\)](#)

F39 Words in s. 206A(1) omitted (29.8.2023) by virtue of [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 37\(3\)\(a\)](#)

F40 Words in s. 206A(1) renumbered as s. 206(1)(a) (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 37\(3\)\(b\)](#)

F41 Word in s. 206A(1) omitted (27.6.2017) by virtue of [Digital Economy Act 2017 \(c. 30\)](#), s. 118(2), [Sch. 9 para. 28](#)

F42 S. 206A(1)(b) and word inserted (29.8.2023) by [Financial Services and Markets Act 2023 \(c. 29\)](#), s. 86(2)(a), [Sch. 6 para. 37\(3\)\(c\)](#)

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- F43** Word in s. 206A(2) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 28**
- F44** S. 206A(2A)(2B) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 37(4)**
- F45** S. 206A(3A) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 37(5)**
- F46** Words in s. 206A(4) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 37(6)**
- F47** Words in s. 206A(4)(a) inserted (30.11.2017) by The Banking Act 2009 (Service Providers to Payment Systems) Order 2017 (S.I. 2017/1167), arts. 1(2), **2(28)**
- F48** Words in s. 206A(4)(a) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(10)(a), 122(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F49** Words in s. 206A(4)(b) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 37(7)**
- F50** Words in s. 206A(5) inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 37(8)**
- F51** S. 206A(6)(b)(ba) substituted for s. 206A(6)(b) (1.4.2013) by Financial Services Act 2012 (c. 21), **ss. 104(10)(b), 122(3)** (with Sch. 20); S.I. 2013/423, art. 3, Sch.
- F52** Word in s. 206A(7)(a) omitted (27.6.2017) by virtue of Digital Economy Act 2017 (c. 30), s. 118(2), **Sch. 9 para. 28**

[^{F53}206A] Service providers connected with a recognised payment system that uses digital settlement assets

For the purposes of section 206A(3A), a person provides services connected with the system where—

- (a) the person creates or issues the digital settlement assets involved in the payment system,
- (b) the person provides services to safeguard, or to safeguard and administer, digital settlement assets including their private cryptographic keys (or means of access),
- (c) the person is directly involved in any of the activities mentioned in paragraphs (a) or (b),
- (d) the person is a digital settlement asset exchange provider,
- (e) the person sets rules, standards, or conditions of access or participation in relation to the payment system, or
- (f) the person provides any service that facilitates, or supports, a transfer of money or digital settlement assets to be made using the payment system, including any infrastructure provider in relation to the system.]

Textual Amendments

- F53** S. 206AA inserted (29.8.2023) by Financial Services and Markets Act 2023 (c. 29), s. 86(2)(a), **Sch. 6 para. 38**

[^{F54}206B] International obligations

- (1) If it appears to the Treasury that any action proposed to be taken by the Bank of England in exercising its powers under this Part would be incompatible with [^{F55}any]

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international obligations of the United Kingdom, the Treasury may direct the Bank not to take that action.

- (2) If it appears to the Treasury that any action which the Bank of England has power under this Part to take is required for the purpose of implementing any such obligation, the Treasury may direct the Bank to take that action.
- (3) A direction under this section—
- (a) may include such supplemental or incidental requirements as the Treasury consider necessary or expedient, and
 - (b) is enforceable on an application by the Treasury, by injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.]

Textual Amendments

- F54** S. 206B inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 105**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F55** Word in [s. 206B\(1\)](#) substituted (31.12.2020) by [The Bank Recovery and Resolution and Miscellaneous Provisions \(Amendment\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1394\)](#), reg. 1(2), **Sch. 1 para. 52**; [2020 c. 1](#), Sch. 5 para. 1(1)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(8A)(8B) inserted by [2012 c. 21 s. 96\(3\)](#)
- s. 8(2)(d) and word inserted by [2012 c. 21 s. 96\(4\)\(b\)](#)