



# Financial Services and Markets Act 2023

## 2023 CHAPTER 29

### PART 1

#### REGULATORY FRAMEWORK

### CHAPTER 1

#### REVOCATION OF [<sup>F1</sup>ASSIMILATED] LAW

##### Textual Amendments

- F1** Word in [Sch. 1 Pt. 1](#) heading substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), [Sch. para. 107\(10\)\(b\)](#)

## 1 Revocation of [<sup>F2</sup>assimilated] law relating to financial services and markets

- (1) The legislation referred to in Schedule 1 is revoked.
- (2) In that Schedule—
  - (a) Part 1 refers to [<sup>F3</sup>assimilated direct principal] legislation;
  - (b) Part 2 refers to subordinate legislation;
  - (c) Part 3 refers to EU tertiary legislation and subordinate legislation made under an instrument referred to in Part 2;
  - (d) Part 4 refers to primary legislation;
  - (e) Part 5 refers to other EU-derived legislation not covered by Parts 1 to 3.

<sup>F4</sup>(3) .....

- (4) The revocation of any legislation in accordance with this section does not affect the continued effect of any amendments to other legislation made by that revoked legislation (as those amendments had effect immediately before the revocation).

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- (5) The Treasury may by regulations provide for specified subordinate legislation, or for subordinate legislation of a specified description, otherwise falling within Part 5 of Schedule 1, not to fall within that Part.
- (6) Regulations under subsection (5) are subject to the negative procedure.

#### Textual Amendments

- F2** Word in s. 1 heading substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 107(3)(a)**
- F3** Words in s. 1(2)(a) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 107(3)(b)**
- F4** S. 1(3) omitted (1.1.2024) by virtue of [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 107(3)(c)**

#### Commencement Information

- I1** S. 1 not in force at Royal Assent, see **s. 86(3)**
- I2** S. 1(1) in force at 11.7.2023 for specified purposes by [S.I. 2023/779](#), **reg. 2(a)**
- I3** S. 1(1) in force at 29.8.2023 for specified purposes by [S.I. 2023/779](#), **reg. 3(a)**
- I4** S. 1(1) in force at 14.12.2023 for specified purposes by [S.I. 2023/1382](#), **reg. 2(a)**
- I5** S. 1(1) in force at 1.1.2024 for specified purposes by [S.I. 2023/779](#), **reg. 5(a)**
- I6** S. 1(1) in force at 1.1.2024 for specified purposes by [S.I. 2023/1382](#), **reg. 3(a)**
- I7** S. 1(1) in force at 5.4.2024 for specified purposes by [S.I. 2023/1382](#), **reg. 4(a)**
- I8** S. 1(2)(4)(5)(6) in force at 11.7.2023 by [S.I. 2023/779](#), **reg. 2(b)**

## 2 Transitional amendments

- (1) Schedule 2 amends particular legislation referred to in Schedule 1 in relation to the transitional period.
- (2) In this Chapter “the transitional period”, in relation to any legislation, means the period ending with the revocation of that legislation.
- (3) The amendments in Schedule 2 do not restrict the power in section 3 to modify legislation as amended by that Schedule.

#### Commencement Information

- I9** S. 2 in force at Royal Assent for specified purposes, see **s. 86(1)(b)**
- I10** S. 2(1) in force at 29.8.2023 for specified purposes by [S.I. 2023/779](#), **reg. 4(a)**
- I11** S. 2(1) in force at 14.12.2023 for specified purposes by [S.I. 2023/1382](#), **reg. 6(a)**
- I12** S. 2(2)(3) in force at 11.7.2023 by [S.I. 2023/779](#), **reg. 2(c)**

## 3 Power to make further transitional amendments

- (1) The Treasury may by regulations modify legislation referred to in Schedule 1 in relation to the transitional period.
- (2) The power under subsection (1) is exercisable only by making such modifications as the Treasury consider necessary or desirable for or in connection with one or more of the following purposes—

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- (a) protecting and enhancing the integrity or stability of the financial system operating in the United Kingdom;
  - (b) promoting the safety and soundness of persons providing financial services;
  - (c) promoting effectiveness in the functioning of financial markets;
  - (d) promoting effective competition in the interests of consumers in financial services and markets or persons who use, or are likely to use, services provided by payment systems in the course of business carried on by those persons;
  - (e) facilitating the international competitiveness of the economy of the United Kingdom and its growth in the medium to long term;
  - (f) protecting consumers and those who are, or may become, insurance policyholders;
  - (g) providing for efficient and effective arrangements in relation to the exercise of functions under the Banking Act 2009 or Part 4 of this Act;
  - (h) protecting public funds;
  - (i) implementing, or making changes to reflect, developments in international standards and practices relating to, or applied for the purposes of, the provision of financial services or the operation of financial markets;
  - (j) providing for efficient and effective regulatory, enforcement, investigatory and supervisory arrangements in relation to the provision of financial services or the operation of financial markets;
  - (k) removing provisions that are yet to be commenced or changing the timing of their commencement.
- (3) In subsection (2)—
- (a) the integrity of the financial system operating in the United Kingdom includes the matters listed in section 1D(2) of FSMA 2000;
  - (b) references to financial markets include references to financial exchanges;
  - (c) “consumer” has the meaning given by section 1G(1) of FSMA 2000;
  - (d) “payment system” has the same meaning as in Part 5 of the Financial Services (Banking Reform) Act 2013 (see section 41 of that Act);
  - (e) the reference to regulatory arrangements includes (among other things) a reference to arrangements for the making of rules.
- (4) In modifying legislation for or in connection with a purpose mentioned in subsection (2) regulations under this section may—
- (a) confer powers on the Treasury or on a regulator;
  - (b) authorise the making of subordinate legislation by the Treasury;
  - (c) authorise the making of rules or other instruments by a regulator;
  - (d) provide for fees to be charged by a regulator in connection with the carrying out of its functions;
  - (e) apply (with or without modifications), or make equivalent or similar provision to, provisions made by or under FSMA 2000 (including criminal offences created by that Act).
- (5) The power under section 84(2)(c) to make supplementary, incidental, consequential, transitional, transitory or saving provision includes, in relation to regulations under this section, power to restate legislation in a clearer or more accessible way.
- (6) Before making regulations under this section the Treasury must consult the regulators.

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- (7) The duty under subsection (6), so far as relating to the Bank of England or the Payment Systems Regulator, applies only if, and to the extent that, the Treasury think it appropriate to consult that regulator in view of the modifications being made by the regulations.
- (8) The power under subsection (1) to modify legislation does not include power to modify—
- (a) primary legislation referred to in Part 4 of Schedule 1;
  - (b) technical standards of the kind mentioned in section 138P(2)(a) of FSMA 2000;
  - (c) EU tertiary legislation of the kind mentioned in section 138P(2)(b) of FSMA 2000.
- (9) Regulations under this section that modify only the following kinds of legislation referred to in Schedule 1 are subject to the negative procedure—
- (a) EU tertiary legislation;
  - (b) subordinate legislation that was not subject to affirmative resolution on being made.
- (10) Regulations under this section to which subsection (9) does not apply are subject to the affirmative procedure.

#### Commencement Information

**I13** S. 3 not in force at Royal Assent, see [s. 86\(3\)](#)

**I14** S. 3 in force at 11.7.2023 by [S.I. 2023/779](#), [reg. 2\(d\)](#)

#### 4 Power to restate and modify saved legislation

- (1) The power under section 86(5) to make saving provision in connection with the revocation of any legislation referred to in Schedule 1 includes power to restate that legislation (as it has effect immediately before its revocation)—
- (a) by amending primary legislation or subordinate legislation, or
  - (b) by making new subordinate legislation.
- (2) Regulations made by virtue of subsection (1) may make such modifications of the legislation being restated as the Treasury consider necessary or desirable for or in connection with—
- (a) the purpose of making the law clearer or more accessible, or
  - (b) any of the purposes mentioned in section 3(2).
- (3) Legislation restated by virtue of subsection (1) is not [<sup>F5</sup>assimilated] law.
- (4) Where legislation is restated by virtue of subsection (1), the Treasury may by regulations make such further modifications of that legislation as they consider necessary or desirable for or in connection with a purpose referred to in subsection (2) (a) or (b).
- (5) Subsection (4) of section 3 applies to regulations made under, or by virtue of, this section as it applies to regulations made under that section.

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- (6) The power conferred by virtue of subsection (1) to restate legislation may be exercised in relation to the entirety of that legislation or in relation to such parts of it as the Treasury consider appropriate.
- (7) The power conferred by virtue of subsection (1) to restate legislation does not include power to restate—
  - (a) technical standards of the kind mentioned in section 138P(2)(a) of FSMA 2000, or
  - (b) EU tertiary legislation of the kind mentioned in section 138P(2)(b) of FSMA 2000.
- (8) Regulations made by virtue of this section that do not amend primary legislation and contain provision restating only the following kinds of legislation referred to in Schedule 1 are subject to the negative procedure—
  - (a) EU tertiary legislation;
  - (b) subordinate legislation that was not subject to affirmative resolution on being made;
  - (c) any other legislation, so far as restated without any modifications made for a purpose mentioned in section 3(2).
- (9) Regulations made by virtue of this section to which subsection (8) does not apply are subject to the affirmative procedure.

#### Textual Amendments

**F5** Word in s. 4(3) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 107(4)**

#### Commencement Information

**I15** S. 4 not in force at Royal Assent, see **s. 86(3)**

**I16** S. 4 in force at 29.8.2023 by [S.I. 2023/779](#), **reg. 4(b)**

## 5 Power to replace references to EU directives

- (1) The Treasury may by regulations modify legislation for or in connection with the purpose of replacing any reference (however expressed) to an EU directive referred to in Part 3 of Schedule 1 with such other provision (if any) as the Treasury consider appropriate.
- (2) The power under subsection (1) is exercisable only if the Treasury consider it necessary or desirable to replace the reference for or in connection with—
  - (a) the purpose of making the law clearer or more accessible, or
  - (b) any of the purposes mentioned in section 3(2).
- (3) Regulations under this section are subject to the affirmative procedure if they amend primary legislation.
- (4) Regulations under this section to which subsection (3) does not apply are subject to the negative procedure.

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### Commencement Information

**I17** S. 5 not in force at Royal Assent, see **s. 86(3)**

**I18** S. 5 in force at 29.8.2023 by S.I. 2023/779, **reg. 4(c)**

## 6 Restatement in rules: exemption from consultation requirements etc

- (1) A relevant requirement does not apply to the making of rules by a regulator if and to the extent that—
  - (a) the proposed rules make excluded provision in relation to provisions of legislation referred to in Schedule 1, and
  - (b) those provisions of legislation are specified, or fall within a description of provisions specified, in relation to the making of rules by the regulator in regulations made by the Treasury for the purposes of this section.
- (2) A relevant requirement does not apply to the making of rules by a regulator if and to the extent that—
  - (a) the proposed rules make excluded changes to provision of existing rules made by the regulator containing [<sup>F6</sup>an assimilated] obligation, and
  - (b) [<sup>F7</sup>the assimilated] obligation is specified, or falls within a description of obligations specified, in relation to the making of rules by the regulator in regulations made by the Treasury for the purposes of this section.
- (3) A relevant requirement does not apply to the revocation of rules by a regulator if and to the extent that—
  - (a) the rules being revoked make provision containing [<sup>F8</sup>an assimilated] obligation, and
  - (b) the rules are revoked without being replaced by other rules made by the regulator.
- (4) For the purposes of subsection (1), rules make excluded provision in relation to provisions of legislation if, in the opinion of the regulator making the rules, the rules reproduce those provisions—
  - (a) without any changes that are material, or
  - (b) with changes that are material but their effect is to reduce a regulatory burden without having any other effects that are material.
- (5) For the purposes of subsection (2), rules make excluded changes to provision of existing rules if, in the opinion of the regulator making the rules—
  - (a) the effect of the changes is to reduce a regulatory burden, and
  - (b) the changes have no other effects that are material.
- (6) In this section references to a “regulatory burden” include (among other things) references to—
  - (a) a financial cost;
  - (b) an administrative inconvenience;
  - (c) an obstacle to trade or innovation;
  - (d) an obstacle to efficiency, productivity or profitability.
- (7) Where a relevant requirement does not apply to the making or revocation of rules by virtue of subsection (1), (2) or (3), the requirement also does not apply to any rules

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that contain incidental, supplemental, consequential or transitional provision so far as made in connection with provision made by virtue of that subsection.

- (8) “Relevant requirement” means—
- (a) in relation to rules made by the FCA, the requirements imposed by—
    - (i) section 138I of FSMA 2000, except for subsection (1)(a), and
    - (ii) section 138K of FSMA 2000;
  - (b) in relation to rules made by the PRA, the requirements imposed by—
    - (i) section 138J of FSMA 2000, except for subsection (1)(a), and
    - (ii) section 138K of FSMA 2000;
  - (c) in relation to rules made by the Bank of England, the requirements imposed by paragraph 10(1)(i) of Schedule 17A to FSMA 2000;
  - (d) in relation to rules made by the Payment Systems Regulator, the requirements imposed by section 104 of the Financial Services (Banking Reform) Act 2013, except for subsection (2)(a).
- (9) Where a regulator makes or revokes rules without complying with a relevant requirement by virtue of subsection (1), (2) or (3), the regulator must publish a statement which must—
- (a) in a case falling within subsection (1), list the provisions of legislation that have been restated by the rules;
  - (b) in a case falling within subsection (2), specify or describe [<sup>F9</sup>the assimilated] obligations in relation to which changes have been made by the rules;
  - (c) in a case falling within subsection (3), specify or describe [<sup>F10</sup>the assimilated] obligations that have been removed by the revocation of the rules.
- (10) Where the statement relates to the making of rules that include provision of a kind mentioned in subsection (4)(b) or (5)(a) and (b), the statement must—
- (a) if made by the FCA, include an explanation of the FCA’s reasons for believing that making the proposed rules is compatible with its duties under section 1B(1), (4A) and (5)(a) of FSMA 2000;
  - (b) if made by the PRA, include an explanation of the PRA’s reasons for believing that making the proposed rules is compatible with its duties under—
    - (i) section 2B(1) or, as the case requires, section 2C(1) or 2D(3) of FSMA 2000, and
    - (ii) section 2H of FSMA 2000;
  - (c) if made by the Bank of England, include an explanation of the Bank’s reasons for believing that making the proposed rules is compatible with—
    - (i) the Bank’s financial stability objective under section 2A of the Bank of England Act 1998, and
    - (ii) the Bank’s duties under section 30D(1)(a) of that Act;
  - (d) if made by the Payment Systems Regulator, include an explanation of the Regulator’s reasons for believing that making the proposed rules is compatible with its duties under section 49 of the Financial Services (Banking Reform) Act 2013.
- (11) The statement must be published in the way appearing to the regulator to be best calculated to bring the statement to the attention of the public.
- (12) Regulations under this section are subject to the affirmative procedure.
- (13) In this section “rules”—

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- (a) in relation to the Payment Systems Regulator, means—
- (i) generally applicable requirements within the meaning of Part 5 of the Financial Services (Banking Reform) Act 2013 (as amended by Schedule 7 to this Act), or
  - (ii) directions of general application imposed under any other enactment;
- (b) in relation to any other regulator, means rules made by that regulator under FSMA 2000 or any other enactment.

#### Textual Amendments

- F6** Words in s. 6(2)(a) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\), reg. 1\(2\), Sch. para. 107\(5\)\(a\)](#)
- F7** Words in s. 6(2)(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\), reg. 1\(2\), Sch. para. 107\(5\)\(b\)](#)
- F8** Words in s. 6(3)(a) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\), reg. 1\(2\), Sch. para. 107\(5\)\(a\)](#)
- F9** Words in s. 6(9)(b) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\), reg. 1\(2\), Sch. para. 107\(5\)\(b\)](#)
- F10** Words in s. 6(9)(c) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\), reg. 1\(2\), Sch. para. 107\(5\)\(b\)](#)

#### Commencement Information

- I19** S. 6 not in force at Royal Assent, see [s. 86\(3\)](#)
- I20** S. 6 in force at 29.8.2023 by [S.I. 2023/779, reg. 4\(d\)](#)

## 7 Interpretation of Chapter

- (1) In this Chapter—
- “EU directive” means a directive within the meaning of Article 288 of the Treaty on the Functioning of the European Union;
  - “EU tertiary legislation” has the same meaning as in the European Union (Withdrawal) Act 2018 (see section 20(1));
  - “legislation” means primary legislation, [<sup>F11</sup>assimilated direct] legislation or subordinate legislation;
  - “regulator” means—
    - (a) the FCA,
    - (b) the PRA,
    - (c) the Bank of England, or
    - (d) the Payment Systems Regulator;
  - “the transitional period” has the meaning given in section 2(2).
- (2) For the purposes of this Chapter, references to legislation do not include references to rules made by a regulator.
- (3) For the purposes of this Chapter, subordinate legislation was subject to affirmative resolution on being made if it was made with approval given by a resolution of each House of Parliament (whether before or after it was made).
- (4) References in this Chapter to the revocation of legislation are, in relation to the legislation referred to in Part 4 of Schedule 1, to be read as references to its repeal.



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**Changes to legislation:** There are currently no known outstanding effects for the Financial Services and Markets Act 2023, CHAPTER 1. (See end of Document for details)

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### Textual Amendments

- F11** Words in s. 7(1) substituted (1.1.2024) by [The Retained EU Law \(Revocation and Reform\) Act 2023 \(Consequential Amendment\) Regulations 2023 \(S.I. 2023/1424\)](#), reg. 1(2), **Sch. para. 107(6)**
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### Commencement Information

- I21** S. 7 not in force at Royal Assent, see **s. 86(3)**
- I22** S. 7 in force at 11.7.2023 by [S.I. 2023/779](#), **reg. 2(e)**

**Changes to legislation:**

There are currently no known outstanding effects for the Financial Services and Markets Act 2023, CHAPTER 1.