
EXPLANATORY NOTE

(This note does not form part of the Regulations)

These Regulations implement Directive [2007/64/EC](#) of the European Parliament and of the Council on payment systems in the internal market (OJ No L 319, 5.12.2007, p. 1). A Transposition Note setting out how this Directive will be transposed into UK law is available from the Payments, Credits and Inclusion Team, HM Treasury, 1 Horse Guards Road, London SW1A 2HQ. An impact assessment has also been prepared. Copies of both documents have been placed in the library of each House of Parliament and are available on HM Treasury's website (www.hm-treasury.gov.uk).

Parts 2 to 4 of the Regulations establish an authorisation regime for certain providers of payment services (broadly, those which are neither credit institutions nor e-money institutions, such as money remitters and mobile phone operators). Part 2 of the Regulations requires the Financial Services Authority ("the FSA") to establish a register of payment service providers and sets out the procedures and conditions for registration; it also sets out the circumstances in which registration may be varied or cancelled. Those payment service providers required to be registered under the Regulations must be registered either as authorised payment institutions (regulations 5 to 11) or as small payment institutions (regulations 12 to 15), depending on the value of payment transactions that they execute and whether they are seeking to establish a branch or provide services in another Member State.

Part 3 of the Regulations sets out the requirements to be met by authorised payment institutions and provides the mechanism for them to establish a branch or provide services in another Member States. These requirements include meeting capital requirements (regulation 18 and Schedule 3) and safeguarding users' funds (regulation 19). The institution must keep records and provide information to the FSA about accounts and outsourcing (regulations 20 to 22). Regulations 23 to 26 deal with the provision of services in another Member State, including through a branch.

Part 4 of the Regulations sets out certain requirements to be met by authorised payment institutions and small payment institutions. It sets out the activities in which such institutions are entitled to engage and imposes conditions in respect of the granting of credit, the use of payment accounts and the provision of services through an agent (regulations 27 to 30). Regulation 31 provides for the responsibilities of an institution that relies on a third party for the provision of a payment service (for example, through an agent or outsourcing). Institutions have a duty to notify the FSA of any change in their circumstances relevant to the conditions of their registration (regulation 32).

Part 5 of the Regulations sets out the requirements to be met by all payment service providers (credit institutions, e-money institutions, authorised payment institutions and small payment institutions) in relation to the provision of information to payment service users. There are separate provisions for single payment service contracts (regulations 36 to 39) and framework contracts (regulations 40 to 46). There are also common provisions including a prohibition on charging for certain information (regulations 47 to 50).

Part 6 of the Regulations makes provision for the rights and obligations relating to the provision of payment services. It makes provision for matters including consent to payment transactions (regulation 55), unauthorised or incorrectly executed payment transactions, liability for unauthorised payment transactions (regulations 59 to 62), refunds, execution of payment transactions, execution time and the liability of payment service providers (regulations 63 to 79).

Part 7 of the Regulations makes provision in respect of the FSA. In particular, it confers on the FSA functions in relation to the supervision and enforcement of certain provisions of the Regulations (regulations 80 to 91). Regulation 95 and Schedule 5 apply certain provisions of primary and secondary legislation (with modifications) in respect of the FSA's functions under the Regulations.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Part 8 of the Regulations makes provision in relation to access to payment systems. Regulation 96 sets out the scope of the application of the Part and regulation 97 prohibits restrictive rules on access to payment systems. Regulations 98 to 109 confer functions on the Office of Fair Trading (“the OFT”) in relation to the supervision and enforcement of the prohibition in regulation 97.

Part 9 of the Regulations provides for criminal offences. Regulation 110 makes it an offence for a person to provide payment services in the United Kingdom unless it is an authorised or small payment institution or one of the other permitted categories of payment service provider. There are offences relating to false claims to be a payment service provider, misleading the FSA or the OFT and the provision of information about currency conversion and charges (regulations 111 to 114). Regulations 121 to 125 make transitional provision including provision for financial institutions and other categories of persons to continue to provide payment services for a limited period of time, without seeking authorisation or registration (although the rights and obligations under Parts 5 and 6 will apply). Regulation 126 and Schedule 6 provide for amendments to primary legislation, including an amendment to Part 16 of, and Schedule 17 to, the Financial Services and Markets Act 2000 to enable the Financial Ombudsman Scheme to apply to payment service providers.