

SCHEDULE 6

Regulation 126

Amendments to primary and secondary legislation

PART 1

Amendments to primary legislation

The 2000 Act

1.—(1) Part 16 of the 2000 Act (the ombudsman scheme) is amended as follows—

- (a) in section 226(2)(b), after “an authorised person” insert “, or a payment service provider within the meaning of the Payment Services Regulations 2009,”; and
- (b) in section 234(1), after “or any class of authorised person” insert “or any payment service provider within the meaning of the Payment Services Regulations 2009”.

(2) In paragraph 13(4) of Schedule 17 to the 2000 Act (the ombudsman scheme), after “an authorised person” insert “, or a payment service provider within the meaning of the Payment Services Regulations 2009,”.

PART 2

Amendments to secondary legislation

The Cross Border Credit Transfer Regulations 1999

2. The Cross Border Credit Transfer Regulations 1999(1) are revoked.

The Consumer Protection (Distance Selling) Regulations 2000

3. Regulation 21 of the Consumer Protection (Distance Selling) Regulations 2000(2) is revoked.

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

4. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001(3) is amended as follows—

(a) after article 9AA insert the following article—

“Funds received for payment services

9AB.—(1) A sum is not a deposit for the purposes of article 5 if it is received by an authorised payment institution, an EEA authorised payment institution or a small payment institution from a payment service user with a view to the provision of payment services.

(2) For the purposes of paragraph (1), “authorised payment institution”, “EEA authorised payment institution”, “small payment institution”, “payment services” and “payment service user” have the meanings given in the Payment Services Regulations 2009.”; and

(1) S.I. 1999/1876.

(2) S.I. 2000/2334.

(3) S.I. 2001/544; relevant amending instruments are S.I. 2002/682, 2002/1776.

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- (b) after article 9K insert the following article—

“Funds received for payment services

9L.—(1) Any funds are not to be treated as electronic money for the purposes of this Order if they are received by an authorised payment institution, an EEA authorised payment institution or a small payment institution from a payment service user with a view to the provision of payment services.

(2) For the purposes of paragraph (1), “authorised payment institution”, “EEA authorised payment institution”, “small payment institution”, “payment services” and “payment service user” have the meanings given in the Payment Services Regulations 2009.”.

The Financial Services (Distance Marketing) Regulations 2004

5. The Financial Services (Distance Marketing) Regulations 2004(4) are amended as follows—

- (a) in regulation 7—

- (i) in paragraph (1) for “paragraph (4)” substitute “paragraphs (1A) and (4)”;
- (ii) after paragraph (1) insert the following paragraph—

“(1A) Where a distance contract to which paragraph (1) applies is also a contract for payment services to which the Payment Services Regulations 2009 apply, the supplier is required to provide to the consumer only the information specified in paragraphs 8 to 13, 16, 17 and 21 of Schedule 1.”; and

- (b) in regulation 8—

- (i) before “The supplier” insert “Subject to paragraph (1A),”;
- (ii) after paragraph (1) insert the following paragraph—

“(1A) Where a distance contract to which paragraph (1) applies is also a contract for payment services to which the Payment Services Regulations 2009 apply, the supplier is required to communicate to the consumer all the contractual terms and conditions and the information specified in paragraphs 8 to 13, 16, 17 and 21 of Schedule 1.”; and

- (c) regulation 14 is revoked.

The Money Laundering Regulations 2007

6. The Money Laundering Regulations 2007 are amended as follows—

- (a) in regulation 2(1)—

- (i) after the definition of “beneficial owner” insert—

““bill payment service provider” means an undertaking which provides a payment service enabling the payment of utility and other household bills;”;

- (ii) after the definition of “ongoing monitoring” insert—

““payment services” has the meaning given by regulation 2(1) of the Payment Services Regulations 2009;”;

- (iii) after the definition of “tax adviser” insert—

(4) [S.I. 2004/2095](#).

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“telecommunication, digital and IT payment service provider” means an undertaking which provides payment services falling within paragraph 1(g) of Schedule 1 to the Payment Services Regulations 2009;”;

- (b) for regulation 17(5) substitute—
 - “(5) In this regulation, “financial institution” excludes—
 - (a) any money service business;
 - (b) any authorised payment institution, EEA authorised payment institution or small payment institution (within the meaning of the Payment Services Regulations 2009) which provides payment services mainly falling within paragraph 1(f) of Schedule 1 to those Regulations.”;
- (c) in regulation 22(1)—
 - (i) in the definition of “Annex I financial institution”, at the end of sub-paragraph (b) omit “or” and after sub-paragraph (c) insert—
 - “(d) a bill payment service provider; or
 - (e) a telecommunication, digital and IT payment service provider;”;
 - (ii) in the definition of “consumer credit financial institution”, at the end of sub-paragraph (b) omit “or” and after sub-paragraph (c) insert—
 - “(d) a bill payment service provider; or
 - (e) a telecommunication, digital and IT payment service provider.”;
- (d) in regulation 23(1) at the end of sub-paragraph (d) insert—
 - “(v) bill payment service providers which are not supervised by the Authority;
 - (vi) telecommunication, digital and IT payment service providers which are not supervised by the Authority.”
- (e) in regulation 25(1), at the end of sub-paragraph (b) omit “and” and after sub-paragraph (c) insert—
 - “(d) bill payment service providers for which they are the supervisory authority; and
 - (e) telecommunication, digital and IT payment service providers for which they are the supervisory authority.”;
- (f) in regulation 26(1), at the end of sub-paragraph (b) omit “or” and after sub-paragraph (c) insert—
 - “(d) bill payment service provider; or
 - (e) telecommunication, digital and IT payment service provider;”;
- (g) after regulation 49, insert the following regulation—

“Disclosure by the Commissioners

49A.—(1) The Commissioners may disclose to the Authority information held in connection with their functions under these Regulations if the disclosure is made for the purpose of enabling or assisting the Authority to discharge any of its functions under the Payment Services Regulations 2009.

(2) Information disclosed to the Authority under subsection (1) may not be disclosed by the Authority or any person who receives the information directly or indirectly from the Authority except—

- (a) to, or in accordance with authority given by, the Commissioners;

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- (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings;
 - (c) with a view to the institution of any other proceedings by the Authority, for the purposes of any such proceedings instituted by the Authority, or for the purposes of any reference to the Tribunal under the Payment Services Regulations 2009; or
 - (d) in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.
- (3) Any person who discloses information in contravention of subsection (2) is guilty of an offence and liable—
- (a) on summary conviction, to imprisonment for a term not exceeding three months, to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years to a fine, or to both.
- (4) It is a defence for a person charged with an offence under this regulation of disclosing information to prove that they reasonably believed
- (a) that the disclosure was lawful; or
 - (b) that the information had already and lawfully been made available to the public.”;
- (h) in regulation 50—
- (i) in paragraph (1) for “ or an existing high value dealer” substitute “, an existing high value dealer, an existing bill payment service provider or an existing telecommunication, digital and IT payment service provider”;
 - (ii) at the end of paragraph (2) insert—
 - “(d) in the case of an existing bill payment service provider or an existing telecommunication, digital and IT payment service provider, 1st March 2010.”
 - (iii) in paragraph (3) for “ or an existing high value dealer” substitute “, an existing high value dealer, an existing bill payment service provider or an existing telecommunication, digital and IT payment service provider”;
 - (iv) in paragraph (5) before the definition of “existing money service business” insert—
 - “existing bill payment service provider” and “existing telecommunication, digital and IT payment service provider” mean a bill payment service provider or a telecommunication, digital and IT payment service provider carrying on business in the United Kingdom immediately before 1st November 2009;”;
- (i) in Schedule 1 for paragraphs 4 and 5, substitute—
- “4. Payment services as defined in Article 4(3) of Directive [2007/64/EC](#) of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market.
5. Issuing and administering other means of payment (including travellers’ cheques and bankers’ drafts) insofar as this activity is not covered by point 4.”.