

SCHEDULE 2

Amendments of subordinate legislation

The Payment Services Regulations 2009

155.—(1) The Payment Services Regulations 2009(1) are amended as follows.

(2) In regulation 2(1) (interpretation), in the definition of “the Authority”, for “Financial Services Authority” substitute “Financial Conduct Authority”.

(3) In regulation 92 (costs of supervision)—

(a) in paragraph (1), for “paragraph 17 (fees) of Part 3 of Schedule 1 to the 2000 Act” substitute “paragraph 23 of Schedule 1ZA (fees)(2) to the 2000 Act”;

(b) in paragraph (1)(a), for “2(3) of the 2000 Act (the Authority’s general duties)” substitute “1B(5)(a) of the 2000 Act (FCA’s general duties)(3)”;

(c) in paragraph (1)(b)—

(i) for “17” substitute “23”;

(ii) for “159(1)” substitute “140A(1)(4)”;

(d) in paragraph (1)(c), for “paragraph 17(2) and (3)” substitute “paragraph 23(7)”.

(4) In regulation 94 (Authority’s exemption from liability in damages)—

(a) for “19” substitute “25”;

(b) for “Schedule 1” substitute “Schedule 1ZA”.

(5) After regulation 125A (transitional provisions: small payment institutions registered before 1st October 2012 and applications pending on that date)(5) insert—

“Transitional provisions: references to the Authority

125B. For the purposes of regulations 121 to 125A (transitional provisions), in the period up to the end of 31st March 2013, references to “the Authority” are to be read as references to the Financial Services Authority.”.

(6) In Schedule 5 (application and modification of legislation)—

(a) in paragraph 1, for sub-paragraph (a) substitute—

“(a) for subsection (2)(6) substitute—

“(2) For the purposes of action by the FCA, a person is guilty of misconduct if, while a relevant person, he has been knowingly concerned in a contravention of the Payment Services Regulations 2009 by an authorised payment institution or a small payment institution.”;

(b) in paragraph 2(7)—

(i) omit “to section 133A (proceedings before Tribunal: decisions and supervisory notices, etc)”;

(ii) before sub-paragraph (a) insert—

(1) [S.I. 2009/209](#).

(2) Schedule 1ZA inserted by section 6 of and Schedule 3 to the Financial Services Act 2012.

(3) Substituted by section 6 of the Financial Services Act 2012.

(4) Substituted by section 24 of the Financial Services Act 2012.

(5) Inserted by [S.I. 2012/1791](#).

(6) Substituted by Schedule 5 to the Financial Services Act 2012.

(7) Amended by [S.I. 2010/22](#).

Status: This is the original version (as it was originally made).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

- “(za) in section 133, for subsection (7A) substitute—
 - “(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of any of the following decisions under the Payment Services Regulations 2009—
 - (a) a decision to publish a statement under regulation 84;
 - (b) a decision to impose a penalty under regulation 85.”;”;
 - (iii) in sub-paragraph (a), after “subsection (1)” insert “of section 133A”;
 - (iv) insert “and” at the end of sub-paragraph (a);
 - (v) in sub-paragraph (b), after “subsection (5)” insert “of section 133A”;
 - (vi) omit “and” at the end of sub-paragraph (b), and sub-paragraph (c);
- (c) in paragraph 3—
 - (i) in sub-paragraph (a)(iii), for “(b) and (c)” substitute “(b), (c) and (d)”;
 - (ii) for sub-paragraph (b) substitute—
 - “(b) in section 166 (reports by skilled persons)(8)—
 - (i) in subsection (2)(a), for “an authorised person”, substitute “an authorised payment institution, an EEA authorised payment institution or a small payment institution”; and
 - (ii) omit subsections (10) and (11);”;
 - (iii) after sub-paragraph (b) insert—
 - “(ba) in section 166A (appointment of skilled person to collect and update information)(9)—
 - (i) in subsections (1), (2), (7)(b) and (8), for “an authorised person”, substitute “an authorised payment institution, an EEA authorised payment institution or a small payment institution”;
 - (ii) omit subsection (10);”;
 - (iv) in sub-paragraph (c)(i), omit sub-paragraph (aa);
 - (v) after sub-paragraph (c)(iii), insert—
 - “(iiia) for subsection (5A) substitute—
 - “(5A) “Investigating authority” means the FCA.”;”;
 - (vi) for sub-paragraph (d)(i)(aa) substitute—
 - “(aa) after paragraph (b) insert—
 - “(c) a person may have contravened any requirement of or imposed under the Payment Services Regulations 2009;”;
 - (vii) in sub-paragraph (d)(i)(bb), for “191” substitute “191F”;
 - (viii) for sub-paragraph (d)(iv) substitute—
 - “(iv) for subsection (6) substitute—
 - “(6) “Investigating Authority” means the FCA.”;”;
 - (ix) in sub-paragraph (f)(iii), for “the Authority” substitute “the FCA”;
 - (x) for sub-paragraph (k)(v) substitute—

(8) Substituted by Schedule 12 to the Financial Services Act 2012.

(9) Inserted by Schedule 12 to the Financial Services Act 2012.

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- “(v) for subsection (11)(a) substitute—
 - “(a) by the FCA under section 165 or 175; and”;
- (d) for paragraph 4 substitute—
 - “4. Sections 341 (access to books etc) to 346 (provision of false or misleading information to auditor or actuary) of the 2000 Act apply with the following modifications—
 - (a) references to a regulator are to the FCA and references to the PRA are to be disregarded;
 - (b) in sections 341(1), 342(1) to (3) and (7), 343(1) to (3), (7) and (8), 344(2), 345(1) and 346(1) and (2) the references to “an authorised person” are to “an authorised payment institution”;
 - (c) for section 344(4) substitute—
 - “(4) In this section “the appropriate regulator” means the FCA.”;
- (e) in paragraph 5—
 - (i) for “Authority” substitute “FCA, PRA”;
 - (ii) in sub-paragraph (a)(i), for “competent authority” substitute “PRA”;
 - (iii) in sub-paragraph (a)(iii)(bb), for “(b) and (c)” substitute “(aa) and (c)”;
 - (iv) for sub-paragraph (iv) substitute—
 - “(iv) for section 6 substitute—
 - “(6) In subsection 5(f), “expert” includes any body or person appointed under regulation 81 of the Payment Services Regulations 2009 to perform a function on behalf of the Authority.”;
- (f) in paragraph 6—
 - (i) in sub-paragraph (b)(i), after “(1)(b),” insert “(1A),”;
 - (ii) in sub-paragraph (c)(i), after “(1)(b),” insert “(1A),”;
 - (iii) in sub-paragraph (d), for “section 368” substitute “section 368(1)”;
- (g) in paragraph 7—
 - (i) for sub-paragraph (c) substitute—
 - “(c) in subsection 391 (publication)—
 - (i) for subsection (1ZB)(10) substitute—
 - “(1ZB) A warning notice falls within this subsection if it is given under regulation 86 of the Payment Services Regulations 2009.”;
 - (ii) in subsection (10), for “has the same meaning as in section 395” substitute “means a notice given under regulation 11(6), (9) or (10) (b) (including as applied by regulation 14) of the Payment Services Regulations 2009.”;
 - (ii) in sub-paragraph (e), for “Authority’s” substitute “FCA’s and PRA’s”.