



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART IV

PERMISSION TO CARRY ON REGULATED ACTIVITIES

Variation and cancellation of Part IV permission

44 Variation etc. at request of authorised person.

- (1) The Authority may, on the application of an authorised person with a Part IV permission, vary the permission by—
 - (a) adding a regulated activity to those for which it gives permission;
 - (b) removing a regulated activity from those for which it gives permission;
 - (c) varying the description of a regulated activity for which it gives permission;
 - (d) cancelling a requirement imposed under section 43; or
 - (e) varying such a requirement.
- (2) The Authority may, on the application of an authorised person with a Part IV permission, cancel the permission.
- (3) The Authority may refuse an application under this section if it appears^[F1] to it that it is desirable to refuse the application in order to meet any of its regulatory objectives.]
- (4) If, as a result of a variation of a Part IV permission under this section, there are no longer any regulated activities for which the authorised person concerned has permission, the Authority must, once it is satisfied that it is no longer necessary to keep the permission in force, cancel it.
- (5) The Authority's power to vary a Part IV permission under this section extends to including any provision in the permission as varied that could be included if a fresh permission were being given in response to an application under section 40.

Status: Point in time view as at 22/04/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F1 Words in s. 44(3) substituted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 3(2)**, 26(2)(a)

Modifications etc. (not altering text)

- C1** S. 44 modified (31.10.2001) by [S.I. 2001/3374](#), **art. 1**, **Sch. para. 3**
S. 44 extended (1.12.2001) by [S.I. 2001/2636](#), **arts. 1(2)(b)**, 46(3); [S.I. 2001/3538](#), **art. 2(1)**
S. 44 extended (1.12.2001) by [S.I. 2001/3592](#), **arts. 1(2)**, 3, 4(1)(3), 8, 28(2) (with [art. 23\(2\)](#))
S. 44 amended (temp. from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), **arts. 1(2)**, 3(3); [S.I. 2001/3538](#), **art. 2(1)**
- C2** Ss. 44, 45 (except s. 45(1)(b)) modified (temp. from 8.4.2002) by [The Financial Services and Markets Act 2000 \(Permission and Applications\) \(Credit Unions etc.\) Order 2002 \(S.I. 2002/704\)](#), **art. 7**
- C3** S. 44 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), **art. 8**
- C4** S. 44(1) modified (10.8.2004) by [The Financial Conglomerates and Other Financial Groups Regulations 2004 \(S.I. 2004/1862\)](#), **reg. 15**
- C5** S. 44(1)(4)(5) modified (31.10.2004) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Mortgages\) Order 2004 \(S.I. 2004/2615\)](#), **arts. 1(2)(b)**, 5, **Sch. para. 3**
- C6** S. 44(1)(4)(5) modified (14.1.2005) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(General Insurance Intermediaries\) Order 2004 \(S.I. 2004/3351\)](#), **arts. 1(2)(b)**, 5, **Sch. para. 3**
- C7** S. 44(1)(4)(5) modified (6.4.2007) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2006 \(S.I. 2006/1969\)](#), **arts. 1(3)**, 7, **Sch. para. 3(e)**
- C8** S. 44(1)(4)(5) modified (30.6.2008 for certain purposes, otherwise 1.1.2009) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2007 \(S.I. 2007/3510\)](#), **arts. 1(2)**, **7(1)(3)**
- C9** S. 44(1)(4)(5) modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2009 \(S.I. 2009/1342\)](#), **arts. 1(2)**, 34, {Sch. paras. 1, 3}

Commencement Information

I1 S. 44 wholly in force at 1.12.2001; s. 44 not in force at Royal Assent see [s. 431\(2\)](#); s. 44 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 44 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

45 Variation etc. on the Authority's own initiative.

- (1) The Authority may exercise its power under this section in relation to an authorised person if it appears to it that—
- (a) he is failing, or is likely to fail, to satisfy the threshold conditions;
 - (b) he has failed, during a period of at least 12 months, to carry on a regulated activity for which he has a Part IV permission; or
 - [^{F2}(c) it is desirable to exercise the power in order to meet any of its regulatory objectives.]

[^{F3}(1A) For the purposes of subsection (1)(c) it does not matter whether there is a relationship between the authorised person and the persons whose interests will be protected by the exercise of the power under this section.]

- (2) The Authority's power under this section is the power to vary a Part IV permission in any of the ways mentioned in section 44(1) or to cancel it.

Status: Point in time view as at 22/04/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- [^{F4}(2A) Without prejudice to the generality of subsections (1) and (2), the Authority may, in relation to an authorised person who is an investment firm, exercise its power under this section to cancel the Part IV permission of the firm if it appears to it that—
- (a) the firm has failed, during a period of at least six months, to carry on a regulated activity which is an investment service or activity for which it has a Part IV permission;
 - (b) the firm obtained the Part IV permission by making a false statement or by other irregular means;
 - (c) the firm no longer satisfies the requirements for authorisation pursuant to Chapter I of Title II of the markets in financial instruments directive, or pursuant to or contained in any [^{F5}EU] legislation made under that Chapter, in relation to a regulated activity which is an investment service or activity for which it has a Part IV permission; or
 - (d) the firm has seriously and systematically infringed the operating conditions pursuant to Chapter II of Title II of the markets in financial instruments directive, or pursuant to or contained in any [^{F5}EU] legislation made under that Chapter, in relation to a regulated activity which is an investment service or activity for which it has a Part IV permission.
- (2B) For the purposes of subsection (2A) a regulated activity is an investment service or activity if it falls within the definition of “investment services and activities” in section 417(1).]
- (3) If, as a result of a variation of a Part IV permission under this section, there are no longer any regulated activities for which the authorised person concerned has permission, the Authority must, once it is satisfied that it is no longer necessary to keep the permission in force, cancel it.
 - (4) The Authority’s power to vary a Part IV permission under this section extends to including any provision in the permission as varied that could be included if a fresh permission were being given in response to an application under section 40.
 - (5) The Authority’s power under this section is referred to in this Part as its own-initiative power.

Textual Amendments

- F2** S. 45(1)(c) substituted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 3(3)(a)**, 26(2)(a)
- F3** S. 45(1A) inserted (8.6.2010) by [Financial Services Act 2010 \(c. 28\)](#), **ss. 3(3)(b)**, 26(2)(a)
- F4** S. 45(2A)(2B) inserted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(5), **Sch. 5 para. 4**
- F5** Words in s. 45(2A)(c)(d) substituted (22.4.2011 with application in accordance with art. 3 of the amending S.I.) by virtue of [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), **art. 6(2)-(5)**

Modifications etc. (not altering text)

- C10** S. 45 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), **arts. 1(2)**, 3(3); [S.I. 2001/3538](#), **art. 2(1)**
S. 45 modified (*temp.* from 31.10.2001) by [S.I. 2001/3374](#), **arts. 1**, 11
- C11** Ss. 44, 45 (except s. 45(1)(b)) modified (*temp.* from 8.4.2002) by [The Financial Services and Markets Act 2000 \(Permission and Applications\) \(Credit Unions etc.\) Order 2002 \(S.I. 2002/704\)](#), **art. 7**

Status: Point in time view as at 22/04/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- C12** S. 45 (except s. 45(1)(b)(2A)(2B)) applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 8**
- C13** S. 45(1) applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 5(4)**
- C14** S. 45(1)(b) excluded (temp. from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(3)**; S.I. 2001/3538, **art. 2(1)**
- C15** S. 45(1)(b) modified (1.7.2009 for certain purposes, otherwise 30.6.2010) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2009 (S.I. 2009/1342), **arts. 1(2), 34, Sch. paras. 1, 3**

Commencement Information

- I2** S. 45 wholly in force at 1.12.2001; s. 45 not in force at Royal Assent see s. 431(2); s. 45 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2(2), Sch. Pt. 2**; s. 45 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

46 Variation of permission on acquisition of control.

- (1) This section applies if it appears to the Authority that—
- (a) a person has acquired control over a UK authorised person who has a Part IV permission; but
 - (b) there are no grounds for exercising its own-initiative power.
- (2) If it appears to the Authority that the likely effect of the acquisition of control on the authorised person, or on any of its activities, is uncertain the Authority may vary the authorised person's permission by—
- (a) imposing a requirement of a kind that could be imposed under section 43 on giving permission; or
 - (b) varying a requirement included in the authorised person's permission under that section.
- (3) Any reference to a person having acquired control is to be read in accordance with Part XII.

Modifications etc. (not altering text)

- C16** S. 46 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2), 3(3)**; S.I. 2001/3538, **art. 2(1)**
 S. 46 modified (*temp.* from 31.10.2001) by S.I. 2001/3374, **arts. 1, 11**
- C17** Ss. 46, 47, 48, 49, 50, 51(2) modified (*temp.*) (8.4.2002) by The Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704), **art. 7**
- C18** S. 46 applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 8**

Commencement Information

- I3** S. 46 wholly in force at 1.12.2001; s. 46 not in force at Royal Assent see s. 431(2); s. 46 in force for specified purposes at 3.9.2001 by S.I. 2001/2632, **art. 2(2), Sch. Pt. 2**; s. 46 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Status: Point in time view as at 22/04/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

47 Exercise of power in support of overseas regulator.

- (1) The Authority’s own-initiative power may be exercised in respect of an authorised person at the request of, or for the purpose of assisting, a regulator who is—
 - (a) outside the United Kingdom; and
 - (b) of a prescribed kind.
- (2) Subsection (1) applies whether or not the Authority has powers which are exercisable in relation to the authorised person by virtue of any provision of Part XIII.
- (3) If a request to the Authority for the exercise of its own-initiative power has been made by a regulator who is—
 - (a) outside the United Kingdom,
 - (b) of a prescribed kind, and
 - (c) acting in pursuance of provisions of a prescribed kind,the Authority must, in deciding whether or not to exercise that power in response to the request, consider whether it is necessary to do so in order to comply with [^{F6}an EU] obligation.
- (4) In deciding in any case in which the Authority does not consider that the exercise of its own-initiative power is necessary in order to comply with [^{F6}an EU] obligation, it may take into account in particular—
 - (a) whether in the country or territory of the regulator concerned, corresponding assistance would be given to a United Kingdom regulatory authority;
 - (b) whether the case concerns the breach of a law, or other requirement, which has no close parallel in the United Kingdom or involves the assertion of a jurisdiction not recognised by the United Kingdom;
 - (c) the seriousness of the case and its importance to persons in the United Kingdom;
 - (d) whether it is otherwise appropriate in the public interest to give the assistance sought.
- (5) The Authority may decide not to exercise its own-initiative power, in response to a request, unless the regulator concerned undertakes to make such contribution towards the cost of its exercise as the Authority considers appropriate.
- (6) Subsection (5) does not apply if the Authority decides that it is necessary for it to exercise its own-initiative power in order to comply with [^{F6}an EU] obligation.
- (7) In subsections (4) and (5) “request” means a request of a kind mentioned in subsection (1).

Textual Amendments

- F6** Words in s. 47(3)(4)(6) substituted (22.4.2011 with application in accordance with art. 3 of the amending S.I.) by virtue of [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), [art. 6\(1\)\(3\)\(4\)](#)

Modifications etc. (not altering text)

- C19** S. 47 amended (*temp.* from 3.9.2001 to 1.12.2001) by [S.I. 2001/2659](#), [arts. 1\(2\)](#), 3(3); [S.I. 2001/3538](#), [art. 2\(1\)](#)
S. 47 modified (*temp.* from 31.10.2001) by [S.I. 2001/3374](#), [arts. 1](#), 11

Status: Point in time view as at 22/04/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- C20** Ss. 46, 47, 48, 49, 50, 51(2) modified (temp.) (8.4.2002) by [The Financial Services and Markets Act 2000 \(Permission and Applications\) \(Credit Unions etc.\) Order 2002 \(S.I. 2002/704\)](#), **art. 7**
- C21** S. 47 applied (with modifications) (31.12.2011) by [The Financial Services and Markets Act 2000 \(Permissions, Transitional Provisions and Consequential Amendments\) \(Northern Ireland Credit Unions\) Order 2011 \(S.I. 2011/2832\)](#), **art. 8**

Commencement Information

- I4** S. 47 wholly in force at 1.12.2001; s. 47 not in force at Royal Assent see s. 431(2); s. 47(1)(3) in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), **art. 2(b)**, **Sch. Pt. 2**; s. 47 in force for specified purposes at 3.9.2001 by [S.I. 2001/2632](#), **art. 2(2)**, **Sch. Pt. 2**; s. 47 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

48 Prohibitions and restrictions.

- (1) This section applies if the Authority—
- (a) on giving a person a Part IV permission, imposes an assets requirement on him; or
 - (b) varies an authorised person’s Part IV permission so as to alter an assets requirement imposed on him or impose such a requirement on him.
- (2) A person on whom an assets requirement is imposed is referred to in this section as “A”.
- (3) “Assets requirement” means a requirement under section 43—
- (a) prohibiting the disposal of, or other dealing with, any of A’s assets (whether in the United Kingdom or elsewhere) or restricting such disposals or dealings; or
 - (b) that all or any of A’s assets, or all or any assets belonging to consumers but held by A or to his order, must be transferred to and held by a trustee approved by the Authority.
- (4) If the Authority—
- (a) imposes a requirement of the kind mentioned in subsection (3)(a), and
 - (b) gives notice of the requirement to any institution with whom A keeps an account,
- the notice has the effects mentioned in subsection (5).
- (5) Those effects are that—
- (a) the institution does not act in breach of any contract with A if, having been instructed by A (or on his behalf) to transfer any sum or otherwise make any payment out of A’s account, it refuses to do so in the reasonably held belief that complying with the instruction would be incompatible with the requirement; and
 - (b) if the institution complies with such an instruction, it is liable to pay to the Authority an amount equal to the amount transferred from, or otherwise paid out of, A’s account in contravention of the requirement.
- (6) If the Authority imposes a requirement of the kind mentioned in subsection (3)(b), no assets held by a person as trustee in accordance with the requirement may, while the requirement is in force, be released or dealt with except with the consent of the Authority.

Status: Point in time view as at 22/04/2011.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (7) If, while a requirement of the kind mentioned in subsection (3)(b) is in force, A creates a charge over any assets of his held in accordance with the requirement, the charge is (to the extent that it confers security over the assets) void against the liquidator and any of A's creditors.
- (8) Assets held by a person as trustee ("T") are to be taken to be held by T in accordance with a requirement mentioned in subsection (3)(b) only if—
- (a) A has given T written notice that those assets are to be held by T in accordance with the requirement; or
 - (b) they are assets into which assets to which paragraph (a) applies have been transferred by T on the instructions of A.
- (9) A person who contravenes subsection (6) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) "Charge" includes a mortgage (or in Scotland a security over property).
- (11) Subsections (6) and (8) do not affect any equitable interest or remedy in favour of a person who is a beneficiary of a trust as a result of a requirement of the kind mentioned in subsection (3)(b).

Modifications etc. (not altering text)

- C22** S. 48 amended (*temp.* from 3.9.2001 to 1.12.2001) by S.I. 2001/2659, **arts. 1(2)**, 3(3); S.I. 2001/3538, **art. 2(1)**
S. 48 modified (*temp.* from 31.10.2001) by S.I. 2001/3374, **arts. 1**, 11
- C23** Ss. 46, 47, 48, 49, 50, 51(2) modified (*temp.*) (8.4.2002) by The Financial Services and Markets Act 2000 (Permission and Applications) (Credit Unions etc.) Order 2002 (S.I. 2002/704), **art. 7**
- C24** S. 48 applied (with modifications) (31.12.2011) by The Financial Services and Markets Act 2000 (Permissions, Transitional Provisions and Consequential Amendments) (Northern Ireland Credit Unions) Order 2011 (S.I. 2011/2832), **art. 8**
- C25** S. 48(3)(a) extended (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 48(2); S.I. 2001/3538, **art. 2(1)**
- C26** S. 48(4)-(11) applied (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 41(3); S.I. 2001/3538, **art. 2(1)**
- C27** S. 48(4)-(7)(9)-(11) applied (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 34(2), 35(4); S.I. 2001/3538, **art. 2(1)**
- C28** S. 48(4)(5) applied (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 48(2); S.I. 2001/3538, **art. 2(1)**
- C29** S. 48(4)(b) extended (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 42(4), 48(4); S.I. 2001/3538, **art. 2(1)**
- C30** S. 48(6) extended (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 36(5); S.I. 2001/3538, **art. 2(1)**
- C31** S. 48(8) excluded (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 34(2), 35(4); S.I. 2001/3538, **art. 2(1)**
S. 48(8) modified (1.12.2001) by S.I. 2001/2636, **arts. 1(2)(b)**, 41(5); S.I. 2001/3538, **art. 2(1)**

Status:

Point in time view as at 22/04/2011.

Changes to legislation:

Financial Services and Markets Act 2000, Cross Heading: Variation and cancellation of Part IV permission is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.