
STATUTORY INSTRUMENTS

2015 No. 2038

The Payment Accounts Regulations 2015

PART 4

Access to payment accounts

Non-discrimination in the provision of payment accounts

18.—(1) A credit institution must not discriminate against consumers legally resident in the European Union by reason of their nationality or place of residence or by reason of any other ground referred to in Article 21 of the Charter of Fundamental Rights of the European Union when those consumers apply for or access a payment account.

(2) The conditions applicable to holding a payment account with basic features must not be discriminatory.

Payment account with basic features

19.—(1) A payment account with basic features is a payment account, denominated in sterling, which allows consumers to—

- (a) open, operate and close the account;
- (b) place funds in the account at the counter of the publicly accessible premises of—
 - (i) the credit institution offering the payment account with basic features (“A”); and
 - (ii) any other credit institution with which A has agreed arrangements that allow any consumer who holds a payment account with A which is not a payment account with basic features to place funds with that institution;
- (c) withdraw cash from the account within the European Union in sterling or in the currency of the member State where the withdrawal is effected—
 - (i) at the counter of the publicly accessible premises of—
 - (aa) the credit institution offering the payment account with basic features; and
 - (bb) any relevant third party;
 - (ii) at automated teller machines operated by the credit institution offering the payment account with basic features and any relevant third party during or outside the credit institution’s or relevant third party’s opening hours;
- (d) execute the following payment transactions within the European Union in sterling or in the currency of another member State—
 - (i) direct debits;
 - (ii) payment transactions through a payment card, including online payments;
 - (iii) credit transfers, including standing orders, at, where available, terminals and counters and via the online facilities of the credit institution.

Status: Point in time view as at 15/12/2015.

*Changes to legislation: There are currently no known outstanding effects for the
The Payment Accounts Regulations 2015, PART 4. (See end of Document for details)*

(2) For the purposes of paragraph (1), “relevant third party” means a payment service provider with which A has agreed arrangements that allow any consumer who holds a payment account with A which is not a payment account with basic features to withdraw cash from—

- (a) that payment service provider’s publicly accessible premises; and
- (b) automated teller machines operated by that payment service provider.

(3) A payment account with basic features must allow consumers to execute an unlimited number of operations in relation to the services set out in paragraph (1).

(4) A credit institution offering a payment account with basic features must allow consumers to manage and initiate payment transactions from the consumer’s payment account with basic features—

- (a) at its publicly accessible premises; and
- (b) via online facilities, where available.

(5) A credit institution must not provide an overdraft facility in relation to a payment account with basic features, and must take all reasonable steps to prevent consumers from carrying out any payment transaction using a payment account with basic features where executing that transaction would result in overrunning.

(6) Subject to paragraph (7), a credit institution must ensure that access to a payment account with basic features is not made conditional on the purchase of—

- (a) additional services; or
- (b) shares in the credit institution.

(7) A credit institution may limit access to a payment account with basic features to a consumer who purchases shares in that credit institution where the requirement to purchase shares in the credit institution applies to all the credit institution’s customers.

Fees

20.—(1) Subject to paragraph (2), a credit institution must not charge any fee for the services set out in regulation 19(1) when those services are provided as part of a payment account with basic features.

(2) Where a credit institution provides any service set out in regulation 19(1) to a consumer in a currency other than sterling, the credit institution may charge a fee for that service provided that the fee charged is reasonable.

(3) In determining whether a fee charged pursuant to paragraph (2) is reasonable, regard shall be given to the following criteria—

- (a) national income levels;
- (b) average fees charged by UK credit institutions in respect of the service.

(4) Where a consumer holding a payment account with basic features—

- (a) authorises a payment transaction from the account; and
- (b) the payment transaction is not executed as a result of there being insufficient funds available,

the credit institution must not charge the consumer any fee.

(5) Where there has been overrunning on a payment account with basic features, a credit institution must not charge the consumer any fee or any interest.

Designated credit institutions

21.—(1) The Treasury must, by giving notice, designate a sufficient number of United Kingdom credit institutions as credit institutions to which the duty in regulation 22 is to apply in order to ensure that—

- (a) access to a payment account with basic features is guaranteed for all eligible consumers in the United Kingdom;
- (b) distortions of competition are prevented.

(2) Schedule 6 makes provision about the designation of credit institutions for this purpose.

Duty to offer a payment account with basic features

22.—(1) A designated credit institution must offer a payment account with basic features to any consumer who—

- (a) applies for a payment account with basic features on or after 18th September 2016; and
- (b) meets the eligibility criteria set out in regulation 23.

(2) Where a designated credit institution does not offer a service referred to in regulation 19(1) to consumers holding payment accounts with it which are not payment accounts with basic features, it is not required to offer that service as part of a payment account with basic features.

Eligibility criteria

23.—(1) In order to be eligible for a payment account with basic features offered by a designated credit institution (“B”), a consumer must be legally resident in the European Union, and must either—

- (a) not hold a payment account with any United Kingdom credit institution that has at least the features set out in regulation 19(1); or
- (b) be ineligible for all payment accounts offered by B that are not payment accounts with basic features.

(2) For the purposes of paragraph (1)—

- (a) consumers legally resident within the European Union include—
 - (i) consumers with no fixed address;
 - (ii) asylum seekers within the meaning of section 94 of the Immigration and Asylum Act 1999(1) (interpretation); and
 - (iii) consumers who have not been granted a residence permit but whose expulsion is impossible for legal or practical reasons;
- (b) a consumer is not to be considered to hold a payment account where the consumer makes a declaration that the credit institution with which the payment account is held has given notice that the payment account is to be closed.

(3) A designated credit institution must verify whether a consumer falls within paragraph (1)(a), unless it chooses to rely on a declaration made by the consumer to that effect.

(1) 1999 c.33; section 94 was amended by S.I. 2008/2833 and sections 44, 60(2) and 161 of, and Schedule 9 to, the Nationality, Immigration and Asylum Act 2002 (c.41) (of the amendments made to section 94 by the 2002 Act, only the amendment given effect by section 60(2) has entered in to force to date).

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Timescale for opening a payment account with basic features

24. Where an application for a payment account with basic features is made by a consumer to a designated credit institution, the designated credit institution must open or refuse to open the account without undue delay, and no later than 10 business days from receipt of the completed application.

Refusal of application

25.—(1) A designated credit institution must refuse to open a payment account with basic features for a consumer where it would be unlawful for it to do so, including where opening the account—

- (a) would be contrary to the Fraud Act 2006**(2)**
- (b) would be contrary to the Money Laundering Regulations 2007**(3)**;
- (c) would be contrary to section 40**(4)** of the Immigration Act 2014 (prohibition on opening current accounts for disqualified persons)**(5)**;
- (d) would breach a requirement or limitation imposed by the Authority on the designated credit institution under Part 4A**(6)** (permission to carry on regulated activities) of the Act that prevents it from accepting new customers.

(2) A designated credit institution may refuse to open a payment account with basic features where it considers that the consumer's conduct in relation to the designated credit institution's staff amounts to the commission of an offence under—

- (a) section 4**(7)**, 4A**(8)** or 5**(9)** of the Public Order Act 1986**(10)**;
- (b) the Protection from Harassment Act 1997**(11)**;
- (c) section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening or abusive behaviour)**(12)**;
- (d) Article 9 of the Public Order (Northern Ireland) Order 1987 (use of words or behaviour or display of written material)**(13)**;
- (e) the Protection from Harassment (Northern Ireland) Order 1997**(14)**.

(3) Where an application for a payment account with basic features is refused, the designated credit institution must without delay inform the consumer in writing and free of charge of the reason for the refusal if it may lawfully do so.

(4) Where notification of the reason for refusal is given, the designated credit institution must advise the consumer of—

- (a) the procedure for submitting a complaint to it against the refusal;
- (b) the consumer's right to make a complaint to the Financial Ombudsman Service; and
- (c) the designated credit institution's relevant contact details.

(2) 2006 c.35.

(3) S.I. 2007/2157.

(4) Section 40 was amended by S.I. 2014/3074.

(5) 2014 c.22.

(6) Part 4A was substituted for the original Part IV by section 11(2) of the Financial Services Act 2012.

(7) Section 4 was amended by sections 111 and 174(2) of, paragraph 26(1) and (34) of Part 1 of Schedule 7 to, and Part 2 of Schedule 17 to, the Serious Organised Crime and Police Act 2005 (c. 15).

(8) Section 4A was inserted by section 154 of the Criminal Justice and Public Order Act 1994 (c.33) and was amended by section 174(2) of, and Part 2 of Schedule 2 to, the Serious Organised Crime and Police Act 2005.

(9) Section 5 was amended by section 57(2) of the Crime and Courts Act 2013 (c.22), and Part 2 of Schedule 2 to, the Serious Organised Crime and Police Act 2005.

(10) 1986 c.64.

(11) 1997 c.40.

(12) 2010 asp 13.

(13) S.I. 1987/463 (N.I.7).

(14) S.I. 1997/1180 (N.I.9).

Framework contracts and termination

26.—(1) Subject to paragraphs (2) and (3), framework contracts for the provision of a payment account with basic features must comply with the requirements of the Payment Service Regulations.

(2) A designated credit institution may only close a payment account with basic features where at least one of the following conditions is met—

- (a) the consumer has knowingly used, or attempted to use, the payment account for illegal purposes;
- (b) there has been no transaction on the account for more than 24 consecutive months;
- (c) the consumer provided incorrect information when applying for the account, and had the correct information been provided, the application would have been refused;
- (d) the consumer is no longer legally resident in the European Union;
- (e) the consumer has access to another payment account in the United Kingdom which—
 - (i) allows the consumer to make use of the services listed in regulation 19(1); and
 - (ii) was opened after the payment account with basic features;
- (f) the credit institution considers that the consumer's conduct in relation to the credit institution's staff amounts to the commission of an offence under—
 - (i) section 4, 4A or 5 of the Public Order Act 1986;
 - (ii) the Protection from Harassment Act 1997;
 - (iii) section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (threatening or abusive behaviour);
 - (iv) Article 9 of the Public Order (Northern Ireland) Order 1987 (use of words or behaviour or display of written material);
 - (v) the Protection from Harassment (Northern Ireland) Order 1997.

(3) Subject to paragraph (4), where a designated credit institution terminates a framework contract for a payment account with basic features on one or more of the grounds mentioned in paragraph (2) (b), (d) or (e), the designated credit institution must inform the consumer of the grounds and the justification for termination—

- (a) at least two months before the termination enters into force;
- (b) in writing; and
- (c) free of charge.

(4) Paragraph (3) does not apply where disclosure to the customer of the grounds and justification for the termination would be unlawful.

(5) Any termination in accordance with paragraph (2)(a), (c) or (f) is to have immediate effect.

(6) Where a designated credit institution terminates a framework contract in accordance with paragraph 2(a), (c) or (f), the credit institution must inform the consumer of the grounds and justification for termination without delay except where it would be unlawful to do so.

(7) Any notification given by the qualifying credit institution under paragraph (3) must advise the consumer of—

- (a) the procedure for submitting a complaint to it against the termination;
- (b) the consumer's right to make a complaint to the Financial Ombudsman Service; and
- (c) the designated credit institution's relevant contact details.

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General information on payment accounts with basic features

27.—(1) The Money Advice Service must endeavour to raise awareness among consumers about—

- (a) the availability of payment accounts with basic features;
- (b) their general pricing conditions;
- (c) the procedures to be followed in order to exercise the right to access a payment account with basic features; and
- (d) the consumer's right to complain to the Financial Ombudsman Service where the consumer considers that a credit institution has not complied with the requirements of this Part.

(2) Designated credit institutions must make available to consumers, free of charge, accessible information and assistance about—

- (a) the specific features of the payment account with basic features they offer; and
- (b) the associated fees and conditions of use.

(3) Designated credit institutions must ensure that information and assistance provided pursuant to paragraph (2) make it clear that the purchase of additional services is not compulsory in order access a payment account with basic features.

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