
STATUTORY INSTRUMENTS

2004 No. 2095

The Financial Services (Distance Marketing) Regulations 2004

Payment by card

14.—(1) Subject to paragraph (2), where—

- (a) a payment card has been issued to an individual who, when entering the contract for the provision of that card, was acting for purposes which were outside any business he may carry on (“the card-holder”), and
- (b) fraudulent use is made of that card to make a payment under or in connection with a distance contract to which these Regulations apply, by another person who is neither acting, nor to be treated as acting, as the card-holder’s agent,

the card-holder may request cancellation of that payment, and is entitled to be recredited with the sum paid, or to have it returned, by the card issuer.

(2) Where paragraph (1) applies and, in any proceedings, the card-holder alleges that any use made of the payment card was not authorised by him, it is for the card issuer to prove that the use was so authorised.

(3) Paragraph (1) does not apply if the contract for the provision of the payment card is an agreement to which section 83(1) of the 1974 Act (liability for misuse of credit facilities) applies.

(4) After subsection (3B) of section 84 of the 1974 Act (misuse of credit-tokens)(1) insert—

“(3C) Subsections (1) and (2) shall not apply to any use, in connection with a distance contract within the meaning of the Financial Services (Distance Marketing) Regulations 2004, of a card which is a credit-token.”.

(5) For the purposes of this regulation—

“card issuer” means the owner of the card;

“payment card” includes a credit card, a charge card, a debit card and a store card.

(1) Subsection (3B) was inserted into section 84 by regulation 21(5) of S.I.2000/2334.