EXPLANATORY MEMORANDUM TO

THE PAYMENT SERVICES AND PAYMENT ACCOUNTS (CONTRACT TERMINATION) (AMENDMENT) REGULATIONS 2025

2025 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by HM Treasury and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Emma Reynolds MP, Economic Secretary to the Treasury confirms that this Explanatory Memorandum meets the required standard.

2.2 Laura Mountford, Deputy Director for Payments and Fintech, at HM Treasury confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Liam Simister at HM Treasury email: Liam.Simister@hmtreasury.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Statutory Instrument amends regulation 51 of the Payment Services Regulations 2017 ("PSRs") to enhance customer protections when payment service providers ("PSPs") terminate contracts with payment service users. These enhancements apply to framework contracts for payment services concluded for an indefinite period and entered into on or after 28th April 2026. They include extending the minimum notice period for contract terminations, mandating PSPs to provide sufficiently detailed and specific reasons for contract termination so payment service users can understand why the contract is being terminated, and informing payment service users of any right they may have to complain to the Financial Ombudsman Service. Certain exceptions are provided for in the instrument. Changes are also made to regulations 25 and 26 of the Payment Accounts Regulations 2015 ("PARs"), mainly to bring the notice period and requirements to give reasons applicable to framework contracts for accounts with basic features into line with the new requirements in the PSRs.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The PSRs currently state that a PSP may terminate a payment services framework contract concluded for an indefinite period by giving at least two months' notice, if the contract so provides (see regulation 51(4)). Payment services are provided under such contracts, such as a bank account. Following its review of findings from the Call for Evidence concluded in April 2023 and extensive engagement with the financial services sector, HM Treasury consider the existing regulations to be deficient at providing appropriate protections for payment service users who are subject to, for example, a PSP's decision to close their bank account. This instrument seeks to address these deficiencies by establishing a higher and more consistent standard of treatment for payment service users in these cases.

5.2 Currently, the notice period given to affected payment service users is often inconsistent; some users receive as standard two months' notice for a termination in line with the time limit in regulation 51(4), others less, dependent on their provider. This appears to be in part due to ambiguities in the regulations. Even where two months' notice is given, HM Treasury consider this to be an insufficient period for users to manage the impacts of a payment service termination. Personal and business customers may struggle to find an alternative provider before the termination takes effect and therefore experience disruption to their ability to manage personal finances or carry out business trading and operations.

5.3 Furthermore, there is no existing obligation in the PSRs requiring PSPs to give an explanation for a termination, and HM Treasury have received evidence that payment service users are currently unlikely to understand the motives justifying the termination. Finally, HM Treasury have also received representations that the current requirements are unclear as to how PSPs' legal obligations under the PSRs interact with others in statute.

5.4 The government intends to address these deficiencies by amending existing legislative requirements to ensure that payment service users are provided with a longer notice period of at least 90 days and a sufficiently detailed and specific explanation to enable them to understand why their payment service framework contract has been terminated. This is to ensure there is more transparency in the communications made between providers and affected users.

5.5 With increased amounts of notice and transparency, it should be easier for personal and business customers to challenge decisions they disagree with or find an alternative provider. These changes will provide more certainty for customers as to their rights in situations where a PSP decides to terminate a payment service contract, resulting in fairer and more predictable outcomes. In turn, PSPs will have greater clarity regarding the requirements applicable to terminating in-scope payment services contracts, including in relation to their other legal obligations, such as under certain financial crime legislation.

What was the previous policy, how is this different?

5.6 The existing regulations provide protection for payment service users broadly by making provision for at least two months' notice when PSPs decide to terminate a payment service contract concluded for an indefinite period. The amendments made by this instrument seek to strengthen this protection by increasing the minimum notice period to 90 days, introducing a new requirement that PSPs must give the user a sufficiently detailed and specific explanation to enable the user to understand why the

contract is being terminated, and addressing ambiguities in the current regulations to ensure they are applied consistently.

6. Legislative and Legal Context

How has the law changed?

6.1 When the UK left the European Union (EU), the body of EU legislation that applied directly in the UK at the point of exit was transferred onto the UK statute book by the European Union (Withdrawal) Act 2018. This is known as "assimilated law".

6.2 The PSRs and the PARs are assimilated law. The former broadly governs the authorisation and associated requirements for authorised or registered PSPs. This includes the rights of payment service users and obligations of PSPs in relation to the provision of payment services. The latter broadly requires credit institutions that have been designated by HM Treasury to offer eligible consumers a payment account with basic features and provides for when an application for such an account may be refused or when such an account may be terminated.

6.3 The Financial Services and Markets Act 2023 ("FSMA 2023") contains a number of new legislative powers, which work together as a set of tools for managing certain assimilated law. These include a power to modify legislation, providing HM Treasury with a power to make targeted modifications to certain assimilated law.

6.4 This instrument is made using powers in sections 3(1) and 84(2) FSMA 2023 and makes transitional amendments to the PSRs and the PARs for the purpose set out in section 3(2)(f) of FSMA 2023 of protecting consumers.

6.5 Regulation 51(4) of the Payment Services Regulations 2017 currently provides that a PSP may terminate a framework contract concluded for an indefinite period by giving at least two months' notice, if the contract so provides.

6.6 Regulation 3 of this instrument makes amendments so that on or after the date the instrument comes into force, 28th April 2026, PSPs who want to terminate a payment service contract concluded for an indefinite period and entered into on or after that date must instead provide the payment service user with a termination notice containing certain information including an explanation of the reasons for termination which is sufficiently detailed and specific to enable the payment service user to understand why the framework contract is being terminated. That must be given at least 90 days before the termination of the relevant contract takes effect, an increase on the previous notice period of two months. The new requirements are found in new regulation 51B.

6.7 There are certain modifications or exceptions to those new requirements. For example, a termination notice will not need to be provided at all (and therefore there will be no minimum notice period) where the PSP is required to apply customer due diligence measures under regulation 27 of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 and is unable to apply customer due diligence measures as required by regulation 28 of those regulations (see new regulation 51C(a)).

6.8 The instrument will not change the requirements applicable to PSP-initiated termination of contracts concluded for an indefinite period and entered into before the instrument comes into force, 28th April 2026. Those will be restated in new regulation 51A.

6.9 New Regulation 51 will now contain the requirements applicable to all framework contracts, regardless of when they were entered into. As was the case before, the termination requirements do not affect any right of a party to a framework contract to

treat it, in accordance with the general law of contract, as unenforceable, void or discharged (see new regulation 51(5)). However, new regulation 51(6) will provide that discharge by agreement may not be relied upon to avoid the new contract termination requirements (i.e. those in new regulations 51B and 51D(1)(b)).

6.10 Under regulation 40(7) of the PSRs, where the payment service user is not a consumer, a micro-enterprise or a charity, the parties to a contract for payment services may still agree that any or all of the provisions of Part 6 of the PSRs do not apply, and that will include the new termination requirements.

6.11 Regulation 25 of the PARs provides prescribed grounds on which a designated credit institution must or may refuse to open a payment account with basic features ("basic bank account") and regulation 26 the grounds on which such institution may close a basic bank account. Both regulations provide for the consumer in question to be informed of the grounds for refusal or closure in certain circumstances, as the case may be, and to be provided with certain information, such as how the consumer may make a complaint. Regulation 2 of the instrument will amend both regulations 25 and 26, mainly to bring the notice period and requirements to give reasons into line as appropriate with the new requirements in the PSRs.

Why was this approach taken to change the law?

6.12 This is the only possible approach to make the necessary changes. The existing requirements reside in law and would therefore require legislative change to alter them. The government has made commitments to Parliament to introduce this legislation in the form of a statement made by a senior HM Treasury official to the Treasury Select Committee ("the TSC") under the previous government at an evidence session on SME finance. [1] This statement was later reiterated by HM Treasury under this government in their published response to the TSC's report. [2]

7. Consultation

Summary of consultation outcome and methodology

7.1 HM Treasury considered the balance of rights and obligations between payment service users and providers in 2023 as part of its Review and Call for Evidence on the Payment Services Regulations 2017. [3] The evidence received from this and supplementary engagement with external stakeholders has shown that the existing regulations are deficient at providing appropriate protections for payment service users. This instrument is being made to address these deficiencies and strengthen protections for payment service users who are subject to a PSP-initiated termination of an in-scope payment contract.

7.2 HM Treasury published findings from the Call for Evidence and proposed reforms to strengthen requirements relating to contract terminations in a policy statement

1 https://committees.parliament.uk/oralevidence/14395/html/
2 https://committees.parliament.uk/work/7809/sme-finance/publications
3 https://www.gov.uk/government/calls-for-evidence/payment-services-regulations-review-and-call-for-evidence

published in July 2023.[4] A further statement providing additional detail on the reforms was published in October.[5]

7.3 A draft of this instrument was published by HM Treasury for technical checks in March 2024, inviting comments from external stakeholders.[6] HM Treasury received responses from financial services trade associations and individual firms. These responses were carefully considered and have resulted in some changes being made to the instrument of which the significant ones are covered below.

7.4 Firstly, the threshold that firms will be required to meet to depart from the requirements in cases of serious crime (as defined in the instrument by reference to the Serious Crime Act 2007) has been amended to "reasonable grounds to suspect". HM Treasury accepted feedback that the previous threshold requiring reasonable belief would be too difficult to meet considering the thresholds found, for example, in financial crime legislation and elsewhere in the PSRs (e.g. regulation 71). The draft instrument was also updated to correct an earlier omission and cover circumstances where a firm finds that a service has been used to facilitate a serious crime.

7.5 Secondly, an additional specific and express exception to the requirement to give 90 days' notice was added to the draft instrument in relation to certain public order and harassment offences. HM Treasury received feedback from the financial services sector that, in their view, the draft instrument published would not provide a secure enough basis for firms to depart from the termination requirements where it is necessary to protect its staff, or others acting on its behalf, from abusive customers. Following careful consideration of this issue, HM Treasury concluded that a change to the instrument was warranted and in line with one of the stated policy aims not to undermine providers' existing obligations, including obligations held towards their staff.

7.6 Lastly, a specific exception has been added in relation to circumstances where a payment service user provided incorrect information prior to, or when entering into the framework contract, and had the correct information been provided, the PSP would not have entered into the contract. Following careful consideration of feedback received from the sector, HM Treasury concluded that a change to the instrument was warranted.

8. Applicable Guidance

8.1 The FCA will update the guidance relating to contract terminations contained within its Payment Services and Electronic Money Approach Document to reflect the legislative changes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment is submitted with this memorandum and published alongside the Explanatory Memorandum on the legislation.gov.uk website.

4 https://www.gov.uk/government/publications/payment-account-contract-termination-and-freedom-of-expression

5 https://www.gov.uk/government/publications/payment-service-contract-termination-rule-changes-implementation-timings-and-next-steps

6 https://www.gov.uk/government/publications/payment-service-contract-termination-rule-changes-draft-si-and-policy-note

Impact on businesses, charities and voluntary bodies

9.2 This instrument will impact businesses, charities and voluntary bodies which enter into payment services contracts on or after 28th April 2026.

9.3 Across parties that are PSPs and subject to the relevant regulations, the government expects that this legislation will cost £76.1m across a ten-year appraisal period. This cost is expected to consist of familiarisation and gap analysis, and the transition costs of updating policies, procedures and systems to meet the new requirements. There are no identified non-monetised benefits to affected PSPs stemming from these proposed reforms.

9.4 The government does not anticipate any costs to users of payment services (be they individual consumers, businesses or charities) due to this instrument. In terms of benefits to users, the government expects this instrument will have two primary non-monetised benefits. These are (i) improvements to users' qualitative experiences during a future termination notice, and (ii) a minor to negligible boost to consumer and business economic confidence as a consequence of the changes.

9.5 The legislation does impact PSPs that are small or micro businesses. The government has not taken the approach to exempt small and micro businesses from the requirements of regulation because this would lead to inconsistent outcomes and confusion for payment service users as to their rights in statute, which is at odds with the government's policy objective.

9.6 There is no, or no significant, impact on the public sector because any direct impacts due to this instrument are expected to fall within the existing business-as-usual activity of public authorities, such as the Financial Conduct Authority and the Financial Ombudsman Service.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The government has engaged with the FCA as the responsible regulator for payment services to understand how it plans to monitor firms' compliance with the new requirements.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, the Economic Secretary to the Treasury has made the following statement: "This instrument implements amendments to the Payment Services Regulations 2017 and Payment Accounts Regulations 2015. The Financial Services and Markets Act 2023 repeals assimilated law relating to financial services, subject to commencement by HM Treasury. It can then be replaced with an approach to regulation tailored to the UK. The Payment Services Regulations 2017 and Payment Accounts Regulations 2015 are assimilated law, and will be considered and reviewed as part of this process."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 The Economic Secretary to the Treasury has made the following statement regarding Human Rights:

"In my view the provisions of The Payment Services and Payment Accounts (Contract Termination) (Amendment) Regulations 2025 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts"). It does however relate to the withdrawal of the United Kingdom from the European Union because the instrument modifies certain assimilated law using the powers under the Financial Services and Markets Act 2023.