STATUTORY INSTRUMENTS

2015 No. 487

FINANCIAL SERVICES AND MARKETS

The Payment to Treasury of Penalties (Enforcement Costs of the Payment Systems Regulator) Order 2015

Made - - - -	*4th March 2015*
Laid before Parliament	*5th March 2015*
Coming into force - -	*1st April 2015*

The Treasury make the following Order in exercise of the powers conferred by paragraph 10(4)(b) and (5)(b) of Schedule 4 to the Financial Services (Banking Reform) Act 2013(**a**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Payment to Treasury of Penalties (Enforcement Costs of the Payment Systems Regulator) Order 2015 and comes into force on 1st April 2015.

(2) In this Order—

"the 2013 Act" means the Financial Services (Banking Reform) Act 2013;

"the 2009 Regulations" means the Payment Services Regulations 2009(**b**).

Enforcement powers

2. The following enactments are specified for the purpose of paragraph 10(4)(b) of Schedule 4 to the 2013 Act (penalty receipts: the Payment Systems Regulator's enforcement powers)—

(a) sections 31E (enforcement of commitments), 34 (enforcement of directions), 36 (penalties) and 40A (penalties: failure to comply with requirements) of the Competition Act 1998 (as applied by section 61 of the 2013 Act)(**c**);

(b) section 174A of the Enterprise Act 2002 (enforcement of powers under section 174: general)(**d**) (as applied by section 59 of the 2013 Act);

(c) section 80 of the 2013 Act (enforcement of requirement to dispose of interest in payment system);

(d) regulations 104 (enforcement of decisions) and 105 (power to impose financial penalties) of the 2009 Regulations.

(**a**) 2013 c. 33.

(**b**) S.I. 2009/209. Regulations 104, 105 and 114 were amended by S.I. 2014/549 and 2015/422.

(**c**) 1998 c. 41. Section 31E was inserted by S.I. 2004/1261 and amended by paragraph 15 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013 (c. 24). Section 34 was amended by paragraph 18 of Schedule 5 to the Enterprise and Regulatory Reform Act 2013. Section 36 was amended by paragraph 38 of Schedule 25 to the Enterprise Act 2002 (c. 40), section 44 of, and paragraph 20 of Schedule 5 to, the Enterprise and Regulatory Reform Act 2013, and by S.I. 2004/1261 and 2012/1809. Section 40A was inserted by section 40 of the Enterprise and Regulatory Reform Act 2013.

(**d**) 2002 c. 40. Section 174A was inserted by paragraph 1 of Schedule 11 to the Enterprise and Regulatory Reform Act 2013.

Relevant offences

3. The following offences are specified for the purposes of paragraph 10(5)(b) of Schedule 4 to the 2013 Act (penalty receipts: relevant offences)—

(a) an offence under Part 1 of the Competition Act 1998;

(b) an offence under Part 4 of the Enterprise Act 2002;

(c) an offence under regulation 114(5) of the 2009 Regulations, resulting from contravention of regulation 114(1)(b), (3) or (4) of the 2009 Regulations (misleading the Payment Services Regulator).

Mark Lancaster
Harriett Baldwin
4th March 2015 Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order relates to paragraph 10 of Schedule 4 to the Financial Services (Banking Reform) Act 2013 (c. 33) ("the 2013 Act"), which requires the Payment Systems Regulator ("the Regulator") established under the 2013 Act to pay to the Treasury the amounts it receives by way of penalties imposed under section 73 of the 2013 Act. The Regulator must make the payment after deducting its enforcement costs.

The Payment Services (Amendment) Regulations 2015 (S.I. 2015/422) ("the 2015 Regulations") amend the Payment Services Regulations 2009 (S.I. 2009/209) ("the 2009 Regulations") so as to transfer to the Regulator the functions of conducting investigations into, and enforcing, compliance with the requirements of regulation 97 of the 2009 Regulations relating to access to payment systems. The 2015 Regulations also amend the 2009 Regulations such that financial penalties received by the Regulator under regulation 105 of those Regulations are to be treated as penalties received by the Regulator under section 73 of the 2013 Act.

This Order supplements the definition of the Regulator's enforcement costs in paragraph 10 of Schedule 4 to the 2013 Act.

Article 2 has the effect that expenses incurred in connection with powers of the Regulator to enforce compliance under the Competition Act 1998 (c. 41), the Enterprise Act 2002 (c. 40), the 2013 Act and the 2009 Regulations are to be included in the Regulator's enforcement costs and so to be deducted from the penalty receipts paid to the Treasury.

Article 3 has the effect that expenses incurred by the Regulator in connection with the investigation of, or (in England and Wales or Northern Ireland) prosecution of, certain offences under the Competition Act 1998, the Enterprise Act 2002 and the 2009 Regulations are to be included in the Regulator's enforcement costs and so to be deducted from the penalty receipts paid to the Treasury.

An impact assessment has not been produced for this instrument as no impact on the costs of business or the voluntary sector is foreseen.

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