



**Isle of Man**

*Ellan Vannin*

**AT 7 of 2015**

**PAYMENT SERVICES ACT 2015**





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## PAYMENT SERVICES ACT 2015

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## PAYMENT SERVICES ACT 2015

*Signed in Tynwald:* 21 April 2015  
*Received Royal Assent:* 21 April 2015  
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AN ACT to provide for the regulation of financial institutions which are, or propose to become, payment service providers for the purposes of the Single Euro Payments Area; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

### 1 Short title

The short title of this Act is the Payment Services Act 2015.

### 2 Commencement

- (1) This Act, other than section 1 and this section, comes into operation upon such day or days as the Council of Ministers may by order appoint.<sup>1</sup>
- (2) An order under subsection (1) may make such consequential, incidental, supplemental, transitional or transitory provision as may appear to the Council of Ministers to be necessary.

### 3 Interpretation

- (1) In this Act—

“**Authority**” means the Isle of Man Financial Services Authority (as established by article 4 of the Transfer of Functions (Isle of Man Financial Services Authority) Order 2015);<sup>2</sup>

“**the Commission**” [Repealed]<sup>3</sup>

“**the Council**” means the Council of the European Union;

“**the Directives**” means the Electronic Money Directive and the Payment Services Directive;

“**Electronic Money Directive**” means Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions [OJEU No. L 267, 10.10.2009, p. 7];

“**OFT**” means the Isle of Man Office of Fair Trading;

“**payment service**” has the meaning given in article 4(3) of the Payment Services Directive;

“**payment service provider**” has the meaning given in article 4(9) of the Payment Services Directive;

“**Payment Services Directive**” means Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market [OJEU No L 319, 5.12.2007, p. 1];

“**payment system**” has the meaning given in article 4(6) of the Payment Services Directive;

“**payment transaction**” has the meaning given in article 4(5) of the Payment Services Directive;

“**the relevant competition provisions**” means the provisions of articles 101 and 102 of the Treaty on the Functioning of the European Union;

“**SEPA**” means the Single Euro Payment Area administered by the European Payments Council in accordance with the Payment Services Directive;

“**SEPA applicant**” means a body corporate that —

- (a) is not a SEPA participant; but
- (b) has made an application to the European Payments Council to become a SEPA participant;

“**SEPA participant**” means a body corporate that—

- (a) is recognised by the European Payments Council as satisfying the eligibility criteria set out in section 5.4 of the SEPA Credit Transfer Scheme Rulebook; and
- (b) adheres to that Rulebook;

“**SEPA payment transaction**” means a payment transaction using the SEPA Credit Transfer Scheme or the SEPA Direct Debit Scheme.

(2) References in this Act (or regulations under it) to the relevant competition provisions or the Directives —

- (a) are to be construed as references to those provisions or the Directives as amended from time to time; and
- (b) are to be taken to include any instrument of the European Union re-enacting the relevant competition provisions or either of the Directives (with or without amendments).

#### **4 Regulations to give effect to the Directives**

The Authority may make regulations applying the Directives, with such additions, modifications or omissions as it thinks appropriate in relation to SEPA applicants, SEPA participants and SEPA payment transactions.<sup>4</sup>

#### **5 Regulation of competition between SEPA participants**

- (1) OFT may make regulations applying, as part of the law of the Island, the relevant competition provisions.
- (2) But such regulations may make provision only so far as is necessary to secure compliance with the relevant competition provisions —
  - (a) between SEPA participants providing payment services in or from the Island; and
  - (b) between those participants and other SEPA participants; and only so far as those provisions relate to —
    - (i) payment services provided in or from the Island; or
    - (ii) payment services provided to persons in the Island.

#### **6 Regulations – supplemental**

- (1) Regulations under this Act may make, in relation to SEPA applicants, SEPA participants and SEPA payments, any provision which might be made by an Act of Tynwald.

This is subject to section 5(2).
- (2) Before making regulations under this Act, the Authority or OFT (as the case requires) must consult such persons as appear to them to be appropriate.<sup>5</sup>

#### **7 Amendment**

- (1) Subsection (2) applies if it appears to the Council of Ministers to be necessary or expedient to amend this Act in consequence of —
  - (a) any development in the operation of payment systems regulated by the European Payments Council; or
  - (b) any amendment of the law of the European Union relating to payment services.
- (2) If this subsection applies, the Council of Ministers may by order amend this Act.
- (3) An order under subsection (2) may contain such incidental, supplemental or transitional provision as appears to the Council of Ministers to be necessary or expedient.

**8 Tynwald control**

- (1) Regulations and orders made under this Act do not have effect unless they are approved by Tynwald.
- (2) Subsection (1) does not apply to an order under section 2(1) (appointed day).



## ENDNOTES

### Table of Endnote References

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<sup>1</sup> ADO remaining provisions (ss. 3 to 8) in operation 6 June 2015 [SD2015/0212].

<sup>2</sup> Definition of “Authority” inserted by SD2015/0090 as amended by SD2015/076.

<sup>3</sup> Definition of “the Commission” repealed by SD2015/0090 as amended by SD2015/076.

<sup>4</sup> S 4 amended by SD2015/0090 as amended by SD2015/076.

<sup>5</sup> Subs (2) amended by SD2015/0090 as amended by SD2015/076.