

2002 No.

BANKS AND BANKING

FINANCIAL SERVICES

The Cross-Border Payments in Euro Regulations 2002

Made - - - - 2002

Laid before Parliament 2002

Coming into force in accordance with Regulation 1

The Treasury, being a government department designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the movement of capital and to payments between Member States and between Member States and countries which are not Member States, in exercise of the powers conferred by that section hereby make the following Regulations:

Citation and commencement

1.—(1) These Regulations may be cited as the Cross-Border Payments in Euro Regulations 2002.

(2) Except as provided for by paragraph (3), these Regulations shall come into force on dd/mm/2002.

(3) Regulation 4(d) shall come into force on 1st July 2003.

Interpretation

2. In these Regulations –

(a) “the Community Regulation” means Regulation (EC) No 2560/2001 of the European Parliament and of the Council of 19 December 2001 on cross-border payments in euro(c); and

(b) expressions used in the Community Regulation have the same meaning in these Regulations as they have in the Community Regulation.

(a) S.I. 1994/757.

(b) 1972 c. 68 .

(c) O.J. L344, 28.12.2001, p. 13.

Civil proceedings

3.—(1) Any contravention by an institution of Article 3 of the Community Regulation shall be actionable at the suit of a person who suffers loss as a result of the contravention, subject to the defences and other incidents applying to actions for the breach of statutory duty.

(2) In the application of paragraph (1) to Scotland, the reference to a contravention of Article 3 of the Community Regulation being actionable at the suit of a person is to be read as a reference to the contravention being actionable at the instance of that person.

Criminal Proceedings

4. Any institution that fails to comply with—

- (a) any provision of Article 4 of the Community Regulation;
- (b) Article 5(1) of the Community Regulation;
- (c) the last sentence of Article 5(2) of the Community Regulation; or
- (d) Article 5(3) of the Community Regulation,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding [level 4] on the standard scale.

Offences by a body corporate

5.—(1) If an offence under these Regulations committed by a body corporate is shown –

- (a) to have been committed with the consent or connivance of any director, chief executive, manager, secretary, or other similar officer of the body corporate, or any person purporting to act in any such capacity, or
- (b) to be attributable to any neglect on his part,

he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2) If the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body.

(3) If an offence under these Regulations committed by a partnership is shown –

- (a) to have been committed with the consent or connivance of a partner, or any person purporting to act as a partner, or
- (b) to be attributable to any neglect on his part,

he as well as the partnership shall be guilty of an offence and shall be liable to be proceeded against and punished accordingly.

(4) If an offence under these Regulations committed by an unincorporated association (other than a partnership) is shown –

- (a) to have been committed with the consent or connivance of an officer of the association or a member of its governing body, or any person purporting to act in any such capacity, or
- (b) to be attributable to any neglect on his part,

he as well as the association shall be guilty of an offence and liable to be proceeded against and punished accordingly.

Dd/mm/2002

Name
Name
Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made pursuant to the United Kingdom's obligation under Article 7 of Regulation (EC) No. 2560/2001 of the European Parliament and of the Council (referred to in the Regulations as the "Community Regulation"), laying down rules on cross-border payments in euro, to ensure that compliance with the Community Regulation is guaranteed by effective, proportionate and deterrent sanctions.

Regulation 3 makes provision for civil proceedings to be brought in cases where an institution breaches Article 3 of the Community Regulation. Regulation 4 creates criminal offences, in respect of breaches of the provisions of Articles 4 and 5 of the Community Regulation, and sets out the maximum penalties which can be imposed on persons convicted of those offences.

Regulation 5 provides for directors and managers of companies, partners of partnerships and other similar persons to be liable to conviction if these offences are committed by the company, partnership or other body with their consent or connivance or as a result of their neglect.