



Financial Services (Banking Reform) Act 2013

2013 CHAPTER 33

PART 5

REGULATION OF PAYMENT SYSTEMS

Information and investigation powers

86 Information and documents: supplemental provisions

- (1) In this section “relevant document” means a document produced in response to a requirement imposed under section 81 or 85.
- (2) In a case where—
 - (a) the Payment Systems Regulator has power under section 81, or an investigator has power under section 85, to require a person to produce a document, but
 - (b) it appears that the document is in the possession of another person, the power may be exercised in relation to that other person.
- (3) Any person to whom a relevant document is produced may—
 - (a) take copies or extracts from the document, or
 - (b) require the person producing the document, or any relevant person (see subsection (4)), to provide an explanation of the document.
- (4) “Relevant person”, in relation to a person who is required to produce a document, means a person who—
 - (a) has been or is or is proposed to be a director or controller of that person,
 - (b) has been or is an auditor of that person,
 - (c) has been or is an actuary, accountant or lawyer appointed or instructed by that person, or
 - (d) has been or is an employee of that person.

Status: This is the original version (as it was originally enacted).

- (5) A relevant document may be retained for so long as the person to whom it is produced considers that it is necessary to retain it (rather than copies of it) for the purposes for which the document was requested.
- (6) If the person to whom a relevant document is produced has reasonable grounds for believing—
- (a) that the document may have to be produced for the purposes of any legal proceedings, and
 - (b) that it might otherwise be unavailable for those purposes,
- it may be retained until the proceedings are concluded.
- (7) If a person who is required under section 81 or 85 to produce a document fails to do so, the Payment Systems Regulator or an investigator may require the person to state, to the best of the person’s knowledge and belief, where the document is.
- (8) A lawyer may be required under section 81 or 85 or this section to provide the name and address of a client.
- (9) A person may not be required under section 81 or 85 or this section to disclose information or produce a document in respect of which the person owes an obligation of confidence as a result of carrying on the business of banking unless—
- (a) the person is the person under investigation or a member of that person’s group,
 - (b) the person to whom the obligation of confidence is owed is the person under investigation or a member of that person’s group,
 - (c) the person to whom the obligation of confidence is owed consents to the disclosure or production, or
 - (d) the imposing on the person of a requirement with respect to such information or document has been specifically authorised by the Payment Systems Regulator.
- (10) If a person claims a lien on a document, its production under section 81 or 85 does not affect the lien.
- (11) In this section—
- “controller” has the same meaning as in FSMA 2000 (see section 422 of that Act);
 - “group” has the same meaning as in FSMA 2000 (see section 421 of that Act);
 - “investigator” means a person appointed under section 83.