



STATUTORY INSTRUMENTS.

S.I. No. 21 of 2020

EUROPEAN UNION (COOPERATION BETWEEN NATIONAL
AUTHORITIES RESPONSIBLE FOR THE ENFORCEMENT OF
CONSUMER PROTECTION LAWS) (NO. 2) REGULATIONS 2020

EUROPEAN UNION (COOPERATION BETWEEN NATIONAL AUTHORITIES RESPONSIBLE FOR THE ENFORCEMENT OF CONSUMER PROTECTION LAWS) (NO. 2) REGULATIONS 2020

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving further effect to Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017¹ on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004, hereby make the following regulations:

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Cooperation between National Authorities Responsible for the Enforcement of Consumer Protection Laws) (No. 2) Regulations 2020.
- (2) These Regulations come into operation on 30 January 2020.

Interpretation

2. (1) In these Regulations -

“Bank” means the Central Bank of Ireland;

“Council Regulation” means Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017² on cooperation between national authorities responsible for the enforcement of consumer protection laws and repealing Regulation (EC) No. 2006/2004.

- (2) A word or expression that is used in these Regulations and which is also used in the Council Regulation has, unless the context otherwise requires, the same meaning in these Regulations as it has in the Council Regulation.

Minimum powers of Bank

3. (1) This Regulation is in addition to, and not in substitution for, the Bank’s powers under financial services legislation (within the meaning of section 3 of the Central Bank (Supervision and Enforcement) Act 2013 (No. 26 of 2013)) relating to investigations or enforcement by the Bank.

¹ OJ No. L 345, 27.12.2017, p. 1.

² OJ No. L 345, 27.12.2017, p. 1.

(2) For the purposes of investigations relating to the Council Regulation, the Bank shall have the investigation powers referred to in Article 9(3) of the Council Regulation.

(3) For the purpose of enforcement of the Council Regulation, the Bank shall have the enforcement powers referred to in Article 9(4)(a) to (h) of the Council Regulation.

(4) The Bank -

- (a) shall have the power to start investigations or proceedings in accordance with Article 9(6) of the Council Regulation, and
- (b) may publish any final decision, trader's commitments or orders adopted pursuant to the Council Regulation in accordance with Article 9(7) of the Council Regulation.

(5) The powers referred to in paragraphs (2), (3) and (4) shall be exercised by the Bank in accordance with Article 10 of the Council Regulation.

Offences

4. (1) For the purposes of Article 9(4)(h) of the Council Regulation and the powers of enforcement conferred on the Bank under Regulation 3(3), a person who fails to comply with a decision, order, interim measure, trader's commitment or other measure specified in Article –

- (a) 9(4)(a),
- (b) 9(4)(b),
- (c) 9(4)(c),
- (d) 9(4)(d),
- (e) 9(4)(e),
- (f) 9(4)(f), or
- (g) 9(4)(g)(i) to (iii),

of the Council Regulation shall be guilty of an offence.

(2) Where a person commits an intra-Union infringement, a widespread infringement or a widespread infringement with a Union dimension relating to a national measure for which the Bank is designated as the competent authority under Article 5(1) of the Council Regulation, he or she commits an offence.

(3) For the purposes of paragraph (2) and Regulation 5(2), a “national measure” means the following:

- (a) sections 41 to 56 (other than section 50) and section 79 of the Consumer Protection Act 2007 (No. 19 of 2007),
- (b) European Communities (Unfair Terms in Consumer Contracts) Regulations 1995 (S.I. No. 27 of 1995);
- (c) European Communities (Distance Marketing of Consumer Financial Services) Regulations 2004 (S.I. No. 853 of 2004);
- (d) European Communities (Consumer Credit Agreements) Regulations 2010 (S.I. No. 281 of 2010);
- (e) European Union (Consumer Mortgage Credit Agreements) Regulations 2016 (S.I. No. 142 of 2016);
- (f) European Union (Payment Accounts) Regulations 2016 (S.I. No. 482 of 2016).

(4) Where an offence referred to in paragraph (1) or (2) is proved to have been committed by a body corporate with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person as well as the body corporate commits an offence and is liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(5) Summary proceedings for an offence under these Regulations may be brought and prosecuted by the Bank.

Penalties

5. (1) A person who commits an offence under Regulation 4(1) shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months, or to both.

(2) Where a person commits an offence under a national measure, and the offence concerned also constitutes an offence under Regulation 4(2), the penalty in respect of the second-mentioned offence shall be the penalty specified in the national measure in respect of the first mentioned-offence concerned.

Amendment of Central Bank Act 1942

6. The Central Bank Act 1942 (No. 22 of 1942) is amended -

- (a) in section 33AK(10), in the definition of “supervisory EU legal Acts” –

- (i) in paragraph (ag), by the substitution of “14 June 2017,” for “14 June 2017;” and
- (ii) by the insertion of the following paragraph after paragraph (ag):
 - “(ah) Regulation (EU) 2017/2394 of the European Parliament and of the Council of 12 December 2017³;”

- (b) in section 33AN(1), by the insertion of the following definition:

“ ‘prescribed contravention’ means, in respect of the European Union (Cooperation between National Authorities Responsible for the Enforcement of Consumer Protection Laws) (No. 2) Regulations 2020 (S.I. No. 21 of 2020), a contravention of Regulation 4(2) of those Regulations;”,

and

- (c) in Part 2 of Schedule 2, by the insertion of the following item after the last item:

“

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GIVEN under my Official Seal,
L.S. 29 January, 2020.

PASCHAL DONOHOE,
Minister for Finance.

³ OJ No. L 345, 27.12.2017, p. 1.

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