

Subsidiary Legislation made under ss.6(1), 63(3), 64(3), 150(1), 620(1), 621(1) and 627.

**Financial Services (Interchange Fees: Card-Based Payment Transactions)  
Regulations 2020**

**LN.2020/016**

*Commencement*                      **15.1.2020**

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**ARRANGEMENT OF REGULATIONS.**

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**2019-26**

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**Financial Services (Interchange Fees: Card-Based  
Payment Transactions) Regulations 2020**

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*This version is out of date*

*In exercise of the powers conferred upon the Minister under section 6(1), 63(3), 64(3), 150(1), 620(1), 621(1) and 627 to the Financial Services Act 2019, as read with section 23(g)(i) of the Interpretation and General Clauses Act, and on the Government by section 23(g)(ii) of that Act and by all other enabling powers, the Minister and the Government have made the following Regulations.*

**PART 1  
PRELIMINARY**

**Title and commencement.**

- 1.(1) These Regulations may be cited as the Financial Services (Interchange Fees: Card-Based Payment Transactions) Regulations 2020.
- (2) These Regulations come into operation on the day of publication.

**Interpretation.**

- 2.(1) In these Regulations “the Act” means the Financial Services Act 2019.
- (2) Expressions used in these Regulations that are also used in the Interchange Fees Regulation have the same meaning in these Regulations as they have in the Interchange Fees Regulation.

**Application of Interchange Fees Regulation.**

3. The Interchange Fees Regulation has effect in Gibraltar subject to these Regulations.

**PART 2  
DEROGATIONS FROM THE INTERCHANGE FEES REGULATION**

**Derogation: interchange fees for domestic debit card transactions.**

- 4.(1) This regulation applies in respect of interchange fees for domestic debit card transactions.
  - (2) Payment service providers may apply a weighted average interchange fee of not more than the equivalent of 0.2% of the annual average transaction value of all domestic debit card transactions within each payment card scheme.
  - (3) In accordance with Article 3(3) of the Interchange Fees Regulation, this regulation ceases to have effect on 9 December 2020.

**PART 3  
ENFORCEMENT AND SANCTIONS**

**Enforcement.**

5.(1) Part 11 of the Act and this Part set out sanctioning powers for contravention of a regulatory requirement (including a requirement contained in these Regulations and the Interchange Fees Regulation).

(2) Sections 158 to 162 of the Act apply to any sanctioning action taken by the GFSC in exercise of the following powers.

**Remediation order.**

6.(1) The GFSC may order a person to take any steps that the GFSC considers to be appropriate for securing compliance with the Interchange Fees Regulation or these Regulations (“a remediation order”).

(2) A remediation order may, in particular, require the person to—

- (a) take a specified action;
- (b) refrain from taking a specified action; and
- (c) review, or take remedial action in respect of, past conduct.

**Administrative penalties.**

7.(1) Any administrative penalty imposed under section 152 of the Act for a contravention of a regulatory requirement by a person to whom these Regulations or the Interchange Fees Regulation applies must be of an amount that does not exceed the higher of the following –

- (a) where the amount of the benefit derived as a result of the contravention can be determined, two times the amount of that benefit;
- (b) in the case of a legal person—
  - (i) £250,000; or
  - (ii) 5% of the total annual turnover according to the last available annual accounts approved by its management body;
- (c) in the case of an individual, £125,000.

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(2) Where a legal person is a parent undertaking or a subsidiary of a parent undertaking which has to prepare consolidated financial accounts in accordance with Directive 2013/34/EU, the relevant total turnover for the purpose of sub-regulation (1)(b) is the total annual turnover, or the corresponding type of income in accordance with the relevant accounting legislative acts, according to the last available consolidated annual accounts approved by the management body of the ultimate parent undertaking.

**PART 4  
REVOCATION**

**Revocation of 2017 Regulations.**

8. The Interchange Fees (Card-Based Payment Transactions) Regulations 2017 are revoked.