



# Civil Liability Act 2018

## 2018 CHAPTER 29

### PART 1

#### WHIPLASH

##### *Settlement of whiplash claims*

#### **6 Rules against settlement before medical report**

- (1) A regulated person is in breach of this section if—
  - (a) the regulated person knows or has reason to suspect that a whiplash claim is being made,
  - (b) the regulated person does, or arranges or advises the doing of, an act mentioned in subsection (2), without first seeing appropriate evidence of the whiplash injury or injuries, and
  - (c) the regulated person is acting as such when the regulated person does, or arranges or advises the doing of, that act.
- (2) The acts referred to in subsection (1) are—
  - (a) inviting a person to offer a payment in settlement of the claim;
  - (b) offering a payment in settlement of the claim;
  - (c) making a payment in settlement of the claim;
  - (d) accepting a payment in settlement of the claim.
- (3) The Lord Chancellor may by regulations make provision about what constitutes appropriate evidence of an injury for the purposes of this section.
- (4) The regulations may in particular—
  - (a) specify the form of any evidence of an injury;
  - (b) specify the descriptions of persons who may provide evidence of an injury;
  - (c) require persons to be accredited for the purpose of providing evidence of an injury;

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*Status: This is the original version (as it was originally enacted).*

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- (d) make provision about accrediting persons, including provision for a person to be accredited by a body specified in the regulations.
- (5) A statutory instrument containing regulations under this section is subject to affirmative resolution procedure.
- (6) In this section “whiplash claim” means a claim that consists only of, or so much of a claim as consists of, a claim for damages for pain, suffering and loss of amenity caused by—
  - (a) one or more whiplash injuries suffered by a person on a particular occasion because of driver negligence and in relation to which section 3 applies, or
  - (b) a whiplash injury or injuries within paragraph (a) suffered by a person on a particular occasion and one or more minor psychological injuries suffered by the person on the same occasion as the whiplash injury or injuries.

## **7 Effect of rules against settlement before medical report**

- (1) The relevant regulator must ensure that it has appropriate arrangements for monitoring and enforcing compliance with the restrictions imposed on regulated persons by section 6.
- (2) The relevant regulator may make rules for the purposes of subsection (1).
- (3) The rules may in particular provide that, in relation to anything done in breach of section 6, the relevant regulator may exercise any powers that the regulator would have in relation to anything done by the regulated person in breach of another restriction (subject to subsections (5) and (6)).
- (4) Where the relevant regulator is the Financial Conduct Authority, section 8 applies instead of subsections (1) to (3).
- (5) A breach of section 6—
  - (a) does not make a person guilty of an offence, and
  - (b) does not give rise to a right of action for breach of statutory duty.
- (6) A breach of section 6 does not make an agreement to settle the whiplash claim in question void or unenforceable.

## **8 Regulation by the Financial Conduct Authority**

- (1) The Treasury may make regulations to enable the Financial Conduct Authority, where it is the relevant regulator, to take action for monitoring and enforcing compliance with the restrictions imposed on regulated persons by section 6.
- (2) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000 with or without modification.
- (3) Those provisions include in particular—
  - (a) provisions as to investigations, including powers of entry and search and criminal offences;
  - (b) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;
  - (c) provisions giving Ministers or the Financial Conduct Authority powers to make subordinate legislation;

- (d) provisions for the Financial Conduct Authority to charge fees.
- (4) The power to make regulations under this section may not be used to make provision inconsistent with section 7(5) and (6).
- (5) A statutory instrument containing regulations under this section is subject to affirmative resolution procedure.