

*Draft Regulations laid before Parliament under section 15(10) of the Compensation Act 2006 for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2008 No.**

**CONSUMER PROTECTION,  
ENGLAND AND WALES**

**The Compensation (Claims Management  
Services) (Amendment) Regulations 2008**

*Made* - - - - *\*\*\**  
*Coming into force in accordance with Regulation 1*

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 8(8), 9 and 15 of, and the Schedule to, the Compensation Act 2006<sup>(1)</sup>.

A draft of these Regulations was laid before Parliament in accordance with section 15(10) of that Act and approved by a resolution of each House of Parliament.

**Citation and commencement**

1.—(1) These Regulations may be cited as the Compensation (Claims Management Services) (Amendment) Regulations 2008.

(2) Except as provided by paragraph (3), these Regulations come into force on 1st July 2008.

(3) Regulations 4 to 7 come into force on 1st August 2008.

**Amendments to the Compensation (Claims Management Services) Regulations 2006**

2. The Compensation (Claims Management Services) Regulations<sup>(2)</sup> are amended as follows.

3. For regulation 21 (Directions about indemnity insurance) substitute—

**“Definitions for this Part**

**21.** In this Part—

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(1) [2006 c. 29](#); section 8(5) and paragraph 14 of the Schedule to the Compensation Act 2006, were amended by the Legal Services Act 2007 ([c.29](#)), section 187 and Schedule 19, paragraphs 1, 6(1) and (2) and 11(1) and (6).  
(2) [S.I. 2006/3322](#).

“employee” means an individual who is employed or appointed by an authorised person in connection with that person’s business, whether under a contract of service or for services or otherwise; or whose services, under an arrangement between the authorised person and a third party, are placed at the disposal and under the control of the authorised person;

“insurance undertaking” means an undertaking, whether or not an insurer, which carries on insurance business which is the business of effecting or carrying out contracts of insurance;

“Zone A country” means—

- (a) any EEA State;
- (b) a country which is a full member of the Organisation for Economic Co-operation and Development; or
- (c) a country which is contained on a list published by the International Monetary Fund as being a country which has concluded special lending arrangements with the International Monetary Fund associated with the International Monetary Fund’s General Arrangements to Borrow;

except any country which is contained on a list published by the Regulator as being a country which has rescheduled its external sovereign debt.

### **Requirement to have professional indemnity insurance for persons who provide representation**

**21A.**—(1) This Part applies only to authorised persons who provide regulated claims management services within the meaning of Article 4(2)(e) of the Compensation (Regulated Claims Management Services) Order 2006(3).

(2) An authorised person who provides regulated claims management services in relation to claims prescribed by Article 4(3)(a) of the Compensation (Regulated Claims Management Services) Order 2006 must take out and maintain professional indemnity insurance, in accordance with this Part.

(3) That person must take out and maintain professional indemnity insurance from an insurance undertaking authorised to transact professional indemnity insurance in—

- (a) a Zone A country;
- (b) the Channel Islands, Gibraltar, Bermuda or the Isle of Man.

### **Minimum terms of professional indemnity insurance**

**21B.**—(1) The contract of professional indemnity insurance must—

- (a) comply with the requirements in paragraphs (2) to (5);
- (b) provide cover where an authorised person or an employee —
  - (i) represents a client in the course of providing or purporting to provide regulated claims management services; and
  - (ii) may be liable for their actions.

(2) The minimum level of indemnity in the contract of professional indemnity insurance must be—

- (a) £250,000 for a single claim; and
- (b) £500,000 for aggregated claims.

(3) Where the contract for professional indemnity insurance includes an excess, this must not be greater than £10,000 per claim.

(4) The contract for professional indemnity insurance must contain cover in respect of legal defence costs.

(5) The contract for professional indemnity insurance must provide for continuous cover for all claims —

- (a) first made against the insured during the period of insurance; or
- (b) made against the insured during or after the period of insurance and arising from claims first notified to the insurer during the period of insurance.”

4. After regulation 40(3) (Issue of warrants generally) insert—

“(4) A judicial officer may, on application by the Regulator, authorise an officer of the Regulator to take possession of any written or electronic records for which a search has been authorised under paragraph (1) if the conditions in paragraph (5) are met.

(5) The conditions are that the officer has reasonable grounds for believing that—

- (a) those records have been obtained in consequence of, or are evidence in relation to—
  - (i) a contravention of section 4(1) of the Act; or
  - (ii) non compliance with a condition of authorisation;
- (b) it is necessary to take copies of those records;
- (c) it is necessary to take possession of those records to take copies of them.”

5.—(1) In paragraph (10)(a) of regulation 42 (Execution of warrants) delete “and”.

(2) After paragraph (10)(b) of regulation 42 insert—

- “(c) whether possession has been taken of any written or electronic records; and
- (d) whether possession was taken of any written or electronic records additional to those sought.”

6. After regulation 43(2) (Copying of documents) insert—

“(2A) Where an officer has taken possession of electronic records pursuant to regulation 40(4) that officer may produce records from it in a form that—

- (a) can be copied; and
- (b) is visible and legible;

if that officer has reasonable grounds for believing that those records are records for which the warrant authorises a search.”

7. After regulation 44 (Record to be given of records copied) insert—

**“Record to be given of records seized**

**44A.** Where an officer of the Regulator takes possession of any written or electronic records pursuant to regulation 40(4) that officer must—

- (a) provide a list of those records to a person within the meaning of regulation 44(b) within a reasonable time;
- (b) take copies of those records as soon as possible; and
- (c) return those records to a person within the meaning of regulation 44(b) once they have been copied.”

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**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Compensation (Claims Management Services) (Amendment) Regulations 2008 No. 1441*

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Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations are made under the Compensation Act 2006 (“the Act”).

Regulation 3 amends Part 5 of the Compensation (Claims Management Services) Regulations 2006 (“the 2006 Regulations”) so as to require authorised persons who provide representation for claimants in the area of personal injury claims to take out and maintain professional indemnity insurance complying with the specified minimum terms. The list of countries that have concluded special lending arrangements, referred to in regulation 3 substituting regulation 21 of the 2006 regulations, can be found on the International Monetary Fund’s website at [www.imf.org/external/np/exr/facts/gabnab.htm](http://www.imf.org/external/np/exr/facts/gabnab.htm). The list of countries that have rescheduled their external sovereign debt can be found on the Regulator’s website at [www.claimsregulation.gov.uk](http://www.claimsregulation.gov.uk).

Chapter 4 of Part 9 of the 2006 Regulations makes provision in relation to search warrants. Regulation 4 inserts regulation 40(4) and (5) into the 2006 Regulations enabling a judicial officer to permit an officer of the Regulator to take possession of written and electronic records pursuant to a search authorised under regulation 40(1) where certain conditions are met. Regulation 6 inserts regulation 44A into the 2006 Regulations so that a list of any written or electronic records taken possession of is provided to the requisite person, copies are made as soon as possible, and records are returned once they have been copied. Regulation 7 amends regulation 42(10) of the 2006 Regulations to extend the matters that must be endorsed on a search warrant.

The amendments to Part 9 are intended to reproduce, as nearly as possible and as far as is applicable, the effect of sections 16 and 19 of the Police and Criminal Evidence Act 1984. The Regulator’s officer is required to have regard to the codes issued by the Home Secretary under the Police and Criminal Evidence Act 1984 for search of premises and seizure of records.

Regulation 3 is brought into force on 1st July 2008 for the purpose of requiring certain authorised persons to take out and maintain professional indemnity insurance. Regulations 4 to 7 come into force on 1st August 2008 for the purpose of enabling an officer of the Regulator to take possession of written or electronic records pursuant to a search warrant.