

*Draft Regulations laid before Parliament under section 206(5) of the Legal Services Act 2007, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**LEGAL SERVICES, ENGLAND AND WALES**

**The Legal Services Act 2007 (Claims Management Complaints) (Fees) Regulations 2014**

*Made* - - - - *\*\*\**  
*Coming into force* - - *28th January 2015*

The Lord Chancellor makes the following Regulations in exercise of the power conferred by sections 174A(3) and (5) and 204(3)(b) and (e) of the Legal Services Act 2007<sup>(1)</sup>.

A draft of this instrument has been laid before Parliament in accordance with section 206(5) of that Act<sup>(2)</sup> and approved by a resolution of each House of Parliament.

**Citation and commencement**

1. These Regulations may be cited as the Legal Services Act 2007 (Claims Management Complaints) (Fees) Regulations 2014 and come into force on 28th January 2015.

**Interpretation**

2. In these Regulations—

“the 2006 Act” means the Compensation Act 2006<sup>(3)</sup>;

“the 2006 Regulations” means the Compensation (Claims Management Services) Regulations 2006<sup>(4)</sup>;

“annual regulation fee” means the fee payable under regulation 15 of the 2006 Regulations;

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(1) 2007 c. 29. Section 174A was inserted by section 140 of the Financial Services (Banking Reform) Act 2013 (c. 33).

(2) Section 206(4) was amended to refer to section 174A by section 140 of the Financial Services (Banking Reform) Act 2013.

(3) 2006 c. 29.

(4) S.I. 2006/3322. Regulation 15(2) provides that, by virtue of a written instrument made under that regulation, the fee payable to the Regulator may be calculated by reference to the annual turnover or expected annual turnover of the business of the authorised person. The current fees determination made under regulation 15(2) is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310912/CMR-fees-determination-2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310912/CMR-fees-determination-2014-2015.pdf) and from the Ministry of Justice, Claims Management Regulation Unit, 102 Petty France, London SW1H 9AJ.

“annual turnover”, in relation to an authorised person, means the annual turnover or estimated annual turnover of the business of that authorised person which has been used to determine the annual regulation fee;

“authorisation” means an authorisation to provide regulated claims management services under the 2006 Act;

“authorised person” has the same meaning as in section 4 of the 2006 Act;

“business day” means any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(5);

“complaints fee” means the fee in respect of relevant OLC expenditure calculated in accordance with the Schedule;

“complaints handling year” means the period of 12 months beginning with 1st April 2015 (“the first complaints handling year”) and each subsequent period of 12 months that begins with 1st April;

“OLC” means the Office for Legal Complaints, as established by section 114 of the Legal Services Act 2007 (the Office for Legal Complaints);

“Regulator” has the same meaning as in section 14 of the 2006 Act;

“Regulator’s Fee Determination 2014-2015” means the determination of fees for the period of 12 months beginning with 1st April 2014 and made by the Regulator in accordance with regulation 15 of the 2006 Regulations(6).

### **Complaints fee payable to the Lord Chancellor**

3. A complaints fee calculated in accordance with the Schedule is payable by an authorised person to the Lord Chancellor—

- (a) for each complaints handling year or part of a complaints handling year in which that person holds an authorisation; and
- (b) for the period beginning with 28<sup>th</sup> January 2015 and ending with 31<sup>st</sup> March 2015, if that person holds an authorisation in relation to the whole or any part of that period.

### **Collection of the complaints fee**

4. The person exercising functions of the Regulator under section 5(9) of the 2006 Act may collect the complaints fee payable to the Lord Chancellor.

### **Date for payment of the complaints fee**

5.—(1) Subject to paragraph (3), the complaints fee for—

- (a) the period from 28th January 2015 to 31st March 2015; and
- (b) the first complaints handling year,

is payable by 31st March 2015.

(2) Subject to paragraph (3), the complaints fee for every complaints handling year other than the first is payable by 31st March preceding the start of that complaints handling year.

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(5) 1971 c. 80.

(6) The Regulator’s Fee Determination 2014-2015 is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310912/CMR-fees-determination-2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310912/CMR-fees-determination-2014-2015.pdf) and from the Ministry of Justice, Claims Management Regulation Unit, 102 Petty France, London SW1H 9AJ.

(3) If the complaints fee is calculated in accordance with paragraph 2 or 4 of the Schedule, the fee is payable by the date specified by the Regulator.

### **Cancellation or suspension for non-payment of complaints fee**

6. Subject to regulation 7, if the authorised person does not pay the complaints fee by the date specified in regulation 5, the Regulator may—

- (a) cancel the authorised person’s authorisation; or
- (b) suspend the authorised person’s authorisation for a period.

### **Procedure for cancellation or suspension for non-payment of complaints fee**

7.—(1) Before cancelling or suspending an authorised person’s authorisation under regulation 6, the Regulator must give written notice to the authorised person—

- (a) stating that the Regulator proposes to cancel or suspend the authorisation, as appropriate;
- (b) in the case of suspension, setting out the period of the suspension and circumstances in which it will be lifted;
- (c) setting out the reasons for the Regulator’s decision;
- (d) inviting the authorised person to make a written submission in relation to the proposed cancellation or suspension; and
- (e) specifying a reasonable period within which the authorised person may make any submissions.

(2) Before cancelling or suspending the authorisation, the Regulator must take into account any submission made by the authorised person within the period allowed (or any further period allowed by the Regulator).

(3) If the Regulator decides to cancel or suspend an authorised person’s authorisation, the Regulator must give written notice to the authorised person of the cancellation or suspension.

(4) A notice served under paragraph (3) must specify the day from which the cancellation or suspension takes effect.

### **Payment by cheque**

8. If the Regulator accepts a cheque in payment of a complaints fee, the fee is not taken to have been paid until the cheque is honoured in full.

### **Notice requirements**

9. If a notice required to be given under these Regulations is given by means of fax transmission or an electronic communication, the notice is taken to have been given on the business day following the day on which the fax or electronic communication was sent.

Signed by the authority of the Lord Chancellor

Date

*Name*  
Parliamentary Under Secretary of State  
Ministry of Justice

## SCHEDULE

Regulation 3

## FEE DETERMINATION

**Complaints fee payable for the period beginning 28th January 2015 and ending 31st March 2015: authorisations granted before 28th January 2015**

1.—(1) This paragraph specifies the complaints fee payable for the period beginning with 28th January 2015 and ending with 31st March 2015 by an authorised person who has been granted an authorisation under the 2006 Regulations before 28th January 2015.

(2) If the annual turnover of an authorised person for the purposes of calculating the annual regulation fee in accordance with the Regulator's Fees Determination 2014-2015 is £163,636.00 or less, that authorised person must pay the sum set out in column 2 of Table 1 which corresponds to the annual turnover in column 1.

Table 1

<i>Column 1</i>	<i>Column 2</i>
<i>Annual Turnover (£)</i>	<i>Complaints Fee Payable (£)</i>
0 – 4,999.99	13.00
5,000 – 14,999.99	25.00
15,000 – 24,999.99	42.00
25,000 – 74,999.99	57.00
75,000 – 163,636.00	90.00

(3) Subject to sub-paragraph (4), if the annual turnover of an authorised person for the purposes of calculating the annual regulation fee in accordance with the Regulator's Fees Determination 2014-2015 is more than £163,636.00, that authorised person shall pay the total of—

- (a) 0.055% of annual turnover for any annual turnover up to £1 million; and
- (b) 0.037% of annual turnover for any annual turnover between £1 million and £5 million; and
- (c) 0.030% of annual turnover for any annual turnover above £5 million.

(4) Under this paragraph, an authorised person is not required to pay a fee in excess of £6,667.00.

**Pro-rata complaints fee payable for the period beginning 28th January 2015 and ending 31st March 2015: authorisations granted on or after 28th January 2015**

2.—(1) This paragraph specifies the complaints fee payable in relation to the period beginning with 28th January 2015 and ending with 31st March 2015 where the Regulator grants an authorisation under the 2006 Regulations on or after 28th January 2015.

(2) If the Regulator grants an authorisation on or after 28th January 2015 but on or before 28th February 2015, the authorised person's complaints fee will be the full sum calculated in accordance with paragraph 1.

(3) If the Regulator grants an authorisation to an authorised person on or after 1st March 2015 but on or before 31st March 2015 that person's complaints fee will be one half of the sum calculated in accordance with paragraph 1 (with the total rounded down to the nearest £1.00) up to a maximum of £3,333.00.

### Annual complaints fee for 2015-16 and subsequent complaints handling years

3.—(1) This paragraph specifies the complaints fee payable for each complaints handling year where the Regulator grants an authorisation under the 2006 Regulations before 1st April of that complaints handling year.

(2) If the annual turnover of an authorised person for the purposes of calculating the annual regulation fee for any given complaints handling year is £163,636.00 or less, that authorised person must pay the sum set out in column 2 of Table 2 which corresponds to the annual turnover in column 1.

**Table 2**

<i>Column 1</i>	<i>Column 2</i>
<i>Annual Turnover (£)</i>	<i>Complaints Fee Payable(£)</i>
0 - 4,999.99	75.00
5,000 - 14,999.99	150.00
15,000 - 24,999.99	250.00
25,000 - 74,999.99	340.00
75,000 - 163,636.00	540.00

(3) Subject to sub-paragraph (4), if the annual turnover of an authorised person for the purposes of calculating the annual regulation fee for any given complaints handling year is more than £163,636.00, that authorised person shall pay the total of—

- (a) 0.33% of annual turnover for any annual turnover up to £1 million; and
- (b) 0.22% of annual turnover for any annual turnover between £1 million and £5 million; and
- (c) 0.18% of annual turnover for any annual turnover above £5 million.

(4) Under this paragraph, an authorised person is not required to pay a fee in excess of £40,000.00.

### Pro-rata annual complaints fee for 2015-16 and subsequent complaints handling years

4.—(1) This paragraph specifies the complaints fee payable for each complaints handling year where the Regulator grants an authorisation under the 2006 Regulations on or after 1st April in that complaints handling year.

(2) The authorised person's complaints fee in relation to that complaints handling year will be one twelfth of the sum calculated in accordance with paragraph 3 for each month or part of a month for which the person is authorised until the end of that complaints handling year (with the total rounded down to the nearest £1.00); and

(3) Under this paragraph, an authorised person is not required to pay a fee in excess of £3,333.00 for each month or part of a month for which the person is authorised until the end of that complaints handling year.

## EXPLANATORY NOTE

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

These Regulations are made under the Legal Services Act 2007 (c. 29) (“the 2007 Act”). Parts 6 and 7 of the 2007 Act make provision in relation to the Office for Legal Complaints (OLC), including provision for the OLC ombudsman scheme to be extended to include complaints about regulated claims management companies. The Compensation Act 2006 (c. 29) (“the 2006 Act”) provides for the designation of a Regulator for regulated claims management services. Where no one is designated as the Regulator and the Secretary of State carries out the function by virtue of section 5(9) of the 2006 Act, the Lord Chancellor may charge periodic fees on those providing regulated claims management services to recover the expenditure incurred by the OLC. Claims management services means advice or assistance in relation to the making of a claim (as defined in section 4(2) of the 2006 Act). Regulated claims management services are those services prescribed in an order of the Secretary of State under section 4(1)(e) of the 2006 Act and include claims management services provided in relation to matters such as personal injury and financial products and services.

Regulation 3 provides for the Lord Chancellor to charge the complaints fees set out in the Schedule, calculated according to the annual turnover bands set out in Table 1 of paragraph 1 and Table 2 of paragraph 3 of the Schedule. Paragraph 1 provides for the fees payable from 28th January 2015 until 31st March 2015 and Paragraph 3 provides for the fees from 1st April 2015 payable on an annual basis. Paragraphs 2 and 4 provide for these respective fee rates to be calculated on a pro-rata basis for authorisations granted during a relevant fee calculation period. Paragraph 1 provides for a calculation of turnover with reference to the Regulator’s Fees Determination 2014-2015, which is available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/310912/CMR-fees-determination-2014-2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310912/CMR-fees-determination-2014-2015.pdf) and from the Ministry of Justice, Claims Management Regulation Unit, 102 Petty France, London SW1H 9AJ.

Regulation 4 provides that the person exercising the functions of the Regulator may collect fees on behalf of the Lord Chancellor, regulation 5 sets out when the fee is due to be paid, and regulations 6 and 7 provide for the consequences of non-payment of the complaints fee, including the procedure for cancelling or suspending an authorised person’s authorisation. Regulation 8 relates to payment by cheque and regulation 9 makes provision about when a notice sent by means of a fax transmission or by an electronic communication is taken to have been received.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector was produced with the Government’s response to the consultation *The Legal Ombudsman and complaints about claims management companies: Consultation on the fee framework* and is available at <https://consult.justice.gov.uk/> and from the Ministry of Justice, Legal Services Policy, 102 Petty France, London, SW1H 9AJ.