

COMPENSATION ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS: PART 2

Section 9 and The Schedule: Regulations

The Schedule – Claims management regulation Enforcement

76. Regulations under paragraph 13 may permit or require the Regulator to take specific action for the purpose of assessing compliance with terms or conditions of authorisation. For example, the Regulator might carry out periodic audits or require authorised persons to provide information at specified intervals.
77. Regulations as described at paragraph 14(1) permit the regulator to take action of a specified kind for the purpose of investigating a complaint about an authorised person or assessing compliance with the terms of authorisation.
78. [Paragraph 14\(2\)](#) allows regulations to provide for the regulator to be able to apply for a warrant, from a judge of the High Court, Circuit judge or justice of the peace, to search business premises of authorised persons to investigate complaints and assess compliance with conditions of authorisation.
79. Regulations under paragraph 14(3) may enable the Regulator to take copies of any papers and electronic records that pertain to the investigation of a suspected offence.
80. [Paragraph 14\(4\)](#) allows the Regulations to stipulate that the Regulator can impose penalties on those suspected of improper actions or withholding information relating to compliance. Such penalties would include the withdrawal or cancellation of all or part of an authority, either on a temporary or permanent basis. These penalties will be commensurate with the gravity of the offence.
81. [Paragraph 14\(5\)](#) indicates that references to the Regulator in paragraph 14 include persons authorised by him, in writing. This will enable persons to exercise enforcement powers on his behalf. This might be a private investigator or other relevant professional.
82. Regulations under paragraph 14(6) must specify the supporting evidence needed by a judge or justice of the peace to satisfy them that a warrant should be issued. This might include the reasons to believe an offence has occurred, the steps taken to procure the evidence needed, and any corroborative evidence available should the complaint stem from an anonymous source. These regulations must also detail the circumstances in which the powers in paragraphs 14(1), (2) and (3) can be used. This could include the requirement for a formal approach to be made requesting information and a period within which an individual must comply before the power to enter premises can be used. They may also specify conditions to be complied with when these powers are used (for example entry to premises only during office hours).
83. [Paragraph 15](#) permits regulations to be made about the exercise of a power under section 8 (which provides a mechanism for enforcement and investigation of suspected offences by unauthorised persons).