



Compensation Act 2006

2006 CHAPTER 29

PART 2

CLAIMS MANAGEMENT SERVICES

4 Provision of regulated claims management services

- (1) A person may not provide regulated claims management services unless—
- (a) he is an authorised person,
 - (b) he is an exempt person,
 - (c) the requirement for authorisation has been waived in relation to him in accordance with regulations under section 9, or
 - (d) he is an individual acting otherwise than in the course of a business.
- (2) In this Part—
- (a) “authorised person” means a person authorised by the Regulator under section 5(1)(a),
 - (b) “claims management services” means advice or other services in relation to the making of a claim,
 - (c) “claim” means a claim for compensation, restitution, repayment or any other remedy or relief in respect of loss or damage or in respect of an obligation, whether the claim is made or could be made—
 - (i) by way of legal proceedings,
 - (ii) in accordance with a scheme of regulation (whether voluntary or compulsory), or
 - (iii) in pursuance of a voluntary undertaking,
 - (d) “exempt person” has the meaning given by section 6(5), and
 - (e) services are regulated if they are—
 - (i) of a kind prescribed by order of the Secretary of State, or
 - (ii) provided in cases or circumstances of a kind prescribed by order of the Secretary of State.

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- (3) For the purposes of this section—
- (a) a reference to the provision of services includes, in particular, a reference to—
 - (i) the provision of financial services or assistance,
 - (ii) the provision of services by way of or in relation to legal representation,
 - (iii) referring or introducing one person to another, and
 - (iv) making inquiries, and
 - (b) a person does not provide claims management services by reason only of giving, or preparing to give, evidence (whether or not expert evidence).
- (4) For the purposes of subsection (1)(d) an individual acts in the course of a business if, in particular—
- (a) he acts in the course of an employment, or
 - (b) he otherwise receives or hopes to receive money or money’s worth as a result of his action.
- (5) The Secretary of State may by order provide that a claim for a specified benefit shall be treated as a claim for the purposes of this Part.
- (6) The Secretary of State may specify a benefit under subsection (5) only if it appears to him to be a United Kingdom social security benefit designed to provide compensation for industrial injury.

5 The Regulator

- (1) The Secretary of State may by order designate a person (“the Regulator”)—
- (a) to authorise persons to provide regulated claims management services,
 - (b) to regulate the conduct of authorised persons, and
 - (c) to exercise such other functions as are conferred on the Regulator by or under this Part.
- (2) The Secretary of State may designate a person only if satisfied that the person—
- (a) is competent to perform the functions of the Regulator,
 - (b) will make arrangements to avoid any conflict of interest between the person’s functions as Regulator and any other functions, and
 - (c) will promote the interests of persons using regulated claims management services (including, in particular, by—
 - (i) setting and monitoring standards of competence and professional conduct for persons providing regulated claims management services,
 - (ii) promoting good practice by persons providing regulated claims management services, in particular in relation to the provision of information about charges and other matters to persons using or considering using the services,
 - (iii) promoting practices likely to facilitate competition between different providers of regulated claims management services, and
 - (iv) ensuring that arrangements are made for the protection of persons using regulated claims management services (including arrangements for the handling of complaints about the conduct of authorised persons)).

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- (3) If the Secretary of State thinks that no existing person (whether an individual or a body corporate or unincorporate) is suitable for designation under subsection (1), he may by order establish a person for the purpose of being designated.
- (4) The Regulator shall—
 - (a) comply with any directions given to him by the Secretary of State;
 - (b) have regard to any guidance given to him by the Secretary of State;
 - (c) have regard to any code of practice issued to him by the Secretary of State;
 - (d) try to meet any targets set for him by the Secretary of State;
 - (e) provide the Secretary of State with any report or information requested (but this paragraph does not require or permit disclosure of information in contravention of any other enactment).
- (5) The Secretary of State shall lay before Parliament any code of practice issued by him to the Regulator.
- (6) The Secretary of State may pay grants to the Regulator (which may be on terms or conditions, including terms and conditions as to repayment with or without interest).
- (7) A reference in this Part to the Regulator includes a reference to a person acting on behalf of the Regulator or with his authority.
- (8) The Secretary of State may by order revoke a person's designation under subsection (1).
- (9) While no person is designated under subsection (1) the Secretary of State shall exercise functions of the Regulator.
- (10) The Secretary of State may by order transfer (whether for a period of time specified in the order or otherwise) a function of the Regulator to the Secretary of State.

6 Exemptions

- (1) The Secretary of State may by order provide that section 4(1) shall not prevent the provision of regulated claims management services by a person who is a member of a specified body.
- (2) The Secretary of State may by order provide that section 4(1) shall not prevent the provision of regulated claims management services—
 - (a) by a specified person or class of person,
 - (b) in specified circumstances, or
 - (c) by a specified person or class of person in specified circumstances.
- (3) Provision by virtue of subsection (1) or (2) may be expressed to have effect subject to compliance with specified conditions.
- (4) Section 4(1) shall not prevent the provision of regulated claims management services by a person who is established or appointed by virtue of an enactment.
- (5) For the purposes of this Part a person is “exempt” if, or in so far as, section 4(1) does not, by virtue of this section, prevent him from providing regulated claims management services.

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7 Enforcement: offence

- (1) A person commits an offence if he contravenes section 4(1).
- (2) A person who is guilty of an offence under subsection (1) shall be liable—
 - (a) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding two years,
 - (ii) to a fine, or
 - (iii) to both, or
 - (b) on summary conviction—
 - (i) to imprisonment for a term not exceeding 51 weeks,
 - (ii) to a fine not exceeding level 5 on the standard scale, or
 - (iii) to both.
- (3) Until the commencement of section 281(4) and (5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (3)(b)(i) above to 51 weeks shall have effect as if it were a reference to six months.

8 Enforcement: the Regulator

- (1) The Regulator may apply to the court for an injunction restraining a person from providing regulated claims management services if he is not—
 - (a) an authorised person,
 - (b) an exempt person, or
 - (c) the subject of a waiver in accordance with regulations under section 9.
- (2) In subsection (1) “the court” means the High Court or a county court.
- (3) The Regulator may—
 - (a) investigate whether an offence has been committed under this Part;
 - (b) institute criminal proceedings in respect of an offence under this Part.
- (4) For the purpose of investigating whether an offence has been committed under this Part the Regulator may require the provision of information or documents.
- (5) On an application by the Regulator a judge of the High Court, Circuit judge or justice of the peace may issue a warrant authorising the Regulator to enter and search premises on which a person conducts or is alleged to conduct regulated claims management business, for the purposes of investigating whether an offence has been committed under this Part.
- (6) The Regulator may take copies of written or electronic records found on a search by virtue of subsection (5) for a purpose specified in subsection (3)(a) or (b).
- (7) In subsections (4) to (6) a reference to the Regulator includes a reference to a person authorised by him in writing.
- (8) The Secretary of State shall make regulations—
 - (a) specifying matters of which a judge or justice of the peace must be satisfied, or to which he must have regard, before issuing a warrant under subsection (5), and
 - (b) regulating the exercise of a power under or by virtue of subsection (4) or (5) (whether by restricting the circumstances in which a power may be exercised,

by specifying conditions to be complied with in the exercise of a power, or otherwise).

9 Regulations

- (1) The Secretary of State shall make regulations about—
 - (a) authorisations under section 5(1);
 - (b) the functions of the Regulator.
- (2) The Schedule specifies particular provision that may be made by the regulations.
- (3) Transitional provision of regulations under this section may, in particular, make provision about the extent to which functions under this Part or under the regulations may be exercised in respect of matters arising before the commencement of a provision made by or by virtue of this Part.

10 Obstructing the Regulator

- (1) A person commits an offence if without reasonable excuse he obstructs the Regulator in the exercise of a power—
 - (a) under section 8(4) to (6), or
 - (b) by virtue of paragraph 14 of the Schedule.
- (2) A person who is guilty of an offence under subsection (1) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

11 Pretending to be authorised, &c.

- (1) A person commits an offence if he falsely holds himself out as being—
 - (a) an authorised person,
 - (b) an exempt person, or
 - (c) the subject of a waiver in accordance with regulations under section 9.
- (2) A person commits an offence if—
 - (a) he offers to provide regulated claims management services, and
 - (b) provision by him of those services would constitute an offence under this Part.
- (3) For the purposes of subsection (2) a person offers to provide services if he—
 - (a) makes an offer to a particular person or class of person,
 - (b) makes arrangements for an advertisement in which he offers to provide services, or
 - (c) makes arrangements for an advertisement in which he is described or presented as competent to provide services.
- (4) A person who is guilty of an offence under subsection (1) or (2) shall be liable—
 - (a) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding two years,
 - (ii) to a fine, or
 - (iii) to both, or
 - (b) on summary conviction—
 - (i) to imprisonment for a term not exceeding 51 weeks,

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- (ii) to a fine not exceeding level 5 on the standard scale, or
 - (iii) to both.
- (5) Where a person commits an offence under this section by causing material to be displayed or made accessible, he shall be treated as committing the offence on each day during any part of which the material is displayed or made accessible.
- (6) Until the commencement of section 281(4) and (5) of the Criminal Justice Act 2003 (c. 44) (51 week maximum term of sentences) the reference in subsection (4)(b)(i) above to 51 weeks shall have effect as if it were a reference to six months.

12 The Claims Management Services Tribunal

- (1) There shall be a tribunal to be known as the Claims Management Services Tribunal.
- (2) The Tribunal shall be constituted as follows—
- (a) members of the Financial Services and Markets Tribunal shall also be members of the Claims Management Services Tribunal,
 - (b) the President of the Financial Services and Markets Tribunal shall also act as President of the Claims Management Services Tribunal,
 - (c) the Deputy President of the Financial Services and Markets Tribunal shall also act as Deputy President of the Claims Management Services Tribunal, and
 - (d) the panel of chairmen of the Financial Services and Markets Tribunal shall also be the panel of chairmen of the Claims Management Services Tribunal.
- (3) An appeal or reference to the Tribunal shall be heard by a member of the panel of chairmen—
- (a) selected in accordance with arrangements made by the President, and
 - (b) sitting alone or, in accordance with those arrangements, with one or two members of the lay panel;
- and a chairman who sits with one other member shall have a casting vote.
- (4) The Lord Chancellor may make rules about the proceedings of the Tribunal; and the rules—
- (a) shall include provision about timing of references and appeals,
 - (b) shall include provision for the suspension of decisions of the Regulator while an appeal could be brought or is pending,
 - (c) shall include provision about the making of interim orders,
 - (d) shall enable the Tribunal to suspend or further suspend (wholly or partly) the effect of a decision of the Regulator,
 - (e) shall permit the Regulator to apply for the termination of the suspension of a decision of his,
 - (f) may include provision about evidence,
 - (g) may include provision about any other matter of a kind for which rules under section 132 of the Financial Services and Markets Act 2000 (c. 8) (the Financial Services and Markets Tribunal) may make provision,
 - (h) may include transitional, consequential or incidental provision,
 - (i) may make provision generally or only for specified cases or circumstances,
 - (j) may make different provision for different cases or circumstances,
 - (k) shall be made by statutory instrument, and

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- (l) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The following provisions of Schedule 13 to the Financial Services and Markets Act 2000 shall have effect, with any necessary modifications, in relation to the Claims Management Services Tribunal—
 - (a) paragraph 5 (remuneration and allowances),
 - (b) paragraph 6 (staff),
 - (c) paragraph 7(3) and (4) (composition),
 - (d) paragraph 8 (sittings),
 - (e) paragraph 10 (practice directions),
 - (f) paragraph 11 (evidence), and
 - (g) paragraph 12(1) to (3) (decisions).
- (6) In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (tribunals under supervision of Council) insert at the appropriate place—

“Claims management services	The Claims Management Services Tribunal established by the Compensation Act 2006.”
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13 Appeals and references to Tribunal

- (1) A person may appeal to the Claims Management Services Tribunal if the Regulator—
 - (a) refuses the person’s application for authorisation,
 - (b) grants the person authorisation on terms or subject to conditions,
 - (c) imposes conditions on the person’s authorisation,
 - (d) suspends the person’s authorisation, or
 - (e) cancels the person’s authorisation.
- (2) The Regulator may refer to the Tribunal (with or without findings of fact or recommendations)—
 - (a) a complaint about the professional conduct of an authorised person, or
 - (b) the question whether an authorised person has complied with a rule of professional conduct.
- (3) On a reference or appeal under this section the Tribunal—
 - (a) may take any decision on an application for authorisation that the Regulator could have taken;
 - (b) may impose or remove conditions on a person’s authorisation;
 - (c) may suspend a person’s authorisation;
 - (d) may cancel a person’s authorisation;
 - (e) may remit a matter to the Regulator;
 - (f) may not award costs.
- (4) An authorised person may appeal to the Court of Appeal against a decision of the Tribunal.

14 Interpretation

In this Part—

- “action” includes omission,
- “authorised person” has the meaning given by section 4,
- “claim” has the meaning given by section 4,
- “claims management services” has the meaning given by section 4,
- “exempt person” has the meaning given by section 6(5),
- “regulated claims management services” shall be construed in accordance with section 4(2)(e),
- “specified”, in relation to an order or regulations, means specified in the order or regulations, and
- “the Regulator” means (subject to section 5(7)) the person designated under section 5(1) or, where no person is designated or in so far as is necessary having regard to any order under section 5(10), the Secretary of State.

15 Orders and regulations

- (1) An order or regulations under this Part—
 - (a) may make provision that applies generally or only in specified cases or circumstances,
 - (b) may make different provision for different cases or circumstances, and
 - (c) may include transitional, incidental or consequential provision.
- (2) An order or regulations under this Part shall be made by statutory instrument.
- (3) An order under section 4(2)(e)—
 - (a) may not be made unless the Secretary of State has consulted—
 - (i) the Office of Fair Trading, and
 - (ii) such other persons as he thinks appropriate, and
 - (b) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (4) An order under section 4(5) may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (5) An order under section 5 may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (6) An order under section 5(3) may include provision—
 - (a) for the appointment of members;
 - (b) for funding;
 - (c) for dissolution (which may include provision enabling the Secretary of State to make provision for the transfer of property, rights and liabilities).
- (7) The first order made under section 6 may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (8) An order under section 6 which has the effect of removing or restricting an exemption from section 4(1) may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

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- (9) Any other order under section 6 shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Regulations under section 8 or 9 may not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.