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STATUTORY INSTRUMENTS

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**2008 No. 1441**

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

**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(1)are amended as follows.

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

**“Definitions for this Part**

**21.** In this Part—

“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(2).

(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.”

5th June 2008

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