



Financial Guidance and Claims Act 2018

2018 CHAPTER 10

PART 1

FINANCIAL GUIDANCE ETC

Unsolicited direct marketing approaches

21 Unsolicited direct marketing: pensions

- (1) The Secretary of State may make regulations prohibiting unsolicited direct marketing relating to pensions.
- (2) The regulations may—
 - (a) make provision about when a communication is to be, or is not to be, treated as unsolicited;
 - (b) make provision for exceptions to the prohibition;
 - (c) confer functions on the Information Commissioner and on OFCOM (including conferring a discretion);
 - (d) apply (with or without modifications) provisions of the data protection legislation or the Privacy and Electronic Communications (EC Directive) Regulations 2003 ([S.I. 2003/2426](#)) (including, in particular, provisions relating to enforcement).
- (3) The regulations may—
 - (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make incidental, supplementary, consequential, transitional or saving provision.
- (4) Regulations under this section are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.

- (6) If before the end of June in any year the Secretary of State has not made regulations under this section (whether or not in that year), the Secretary of State must—
- (a) publish a statement, by the end of July in that year, explaining why regulations have not been made and setting a timetable for making the regulations, and
 - (b) lay the statement before each House of Parliament.
- (7) In this section, “OFCOM” means the Office of Communications established by section 1 of the Office of Communications Act 2002.

22 Unsolicited direct marketing: other consumer financial products etc

- (1) The Secretary of State must keep under review whether a prohibition on unsolicited direct marketing in relation to consumer financial products and services other than pensions would be appropriate.
- (2) If the Secretary of State considers that such a prohibition would be appropriate, the Secretary of State may make regulations applying regulations made under section 21 to other consumer financial products and services (with or without modifications).
- (3) In considering whether to make such regulations, the Secretary of State must take into account any advice received from the single financial guidance body under section 3(7)(b)(ii) (consumer protection function: advice on effect on consumers of unsolicited direct marketing).
- (4) The regulations may—
- (a) make different provision for different purposes;
 - (b) make different provision for different areas;
 - (c) make incidental, supplementary, consequential, transitional or saving provision.
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.