Draft Regulations laid before Parliament under section 15(10) of the Compensation Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

CONSUMER PROTECTION, ENGLAND AND WALES

The Compensation (Claims Management Services) (Amendment) Regulations 2014

Made - - - - ***

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 9 and 15(1)(b) and (c) of the Compensation Act 2006(**1**) and paragraphs 1, 2, 8, 9, 10, 11, 13, 14 and 16 of the Schedule to that Act.

A draft of this instrument has been laid before Parliament in accordance with section 15(10) of that Act and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Compensation (Claims Management Services) (Amendment) Regulations 2014.

(2) This regulation, regulation 2(1) to (5) and regulation 3(1) to (3) come into force on the day after the day these Regulations are made.

(3) Regulation 2(6) and regulation 3(4) and (5) come into force 21 days after the day these Regulations are made.

(4) In these Regulations "the 2006 Regulations" means the Compensation (Claims Management Services) Regulations 2006(**2**).

(**1**) 2006 c. 29. Section 9 was amended by paragraphs 1 and 7 of Schedule 19 to the Legal Services Act 2007 (c. 29) and sections 139 and 140 of the Financial Services (Banking Reform) Act 2013 (c. 33). Section 15 was amended by Schedule 23 to the Legal Services Act 2007 and S.I. 2014/892. The Schedule was amended by paragraphs 1 and 11 of Schedule 19 to the Legal Services Act 2007 and sections 139 and 140 of the Financial Services (Banking Reform) Act 2013. There are other amendments to the Compensation Act 2006 that are not relevant to the subject matter of these Regulations.

(**2**) S.I. 2006/3322. Regulations 40 and 43 of the 2006 Regulations, which are referred to in the amendments made by regulation 2 of these Regulations, were amended by S.I. 2008/1441. There are other amendments to the 2006 Regulations that are not relevant to the subject matter of these Regulations.

Amendment of the 2006 Regulations

2.—(1) The 2006 Regulations are amended as follows.

(2) In regulation 3 (definitions) before the definition of "code of practice" insert—

""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(**3**);".

(3) In regulation 5 (use of electronic communication) omit paragraph (3).

(4) In regulation 14 (surrender of authorisations)—

(a) in paragraph (1), for "An authorised person" substitute "Subject to paragraphs (3), (4) and (5), an authorised person"; and

(b) after paragraph (2) insert—

"(3) If an authorised person has been given a notice in writing by the Regulator stating that the authorised person is the subject of an investigation by the Regulator, the authorised person may not surrender the authorisation without the Regulator's written consent unless the Regulator has given a notice under regulation 14A.

(4) If an authorised person has been given a notice by the Regulator under regulation 36, the authorised person may not surrender the authorisation without the Regulator's written consent unless the Regulator has given a notice under regulation 14A.

(5) If—

(a) a warrant is issued under regulation 40; and

(b) the authorised person whose alleged failure to comply with a condition of authorisation gave rise to the warrant has been given a notice in writing by the Regulator stating that the warrant has been issued,

the authorised person may not surrender the authorisation without the Regulator's written consent unless the Regulator has given a notice under regulation 14A.".

(5) After regulation 14 insert—

"**Notice lifting a restriction on surrender**

14A.—(1) Subject to paragraph (2), the Regulator may give a notice under this regulation if the Regulator considers it is appropriate for the restriction concerned to cease to apply.

(2) The Regulator must give a notice under this regulation following the Regulator's decision to take action against the authorised person under Part 10 or 11, or to take no action, in respect of (as the case may be)—

(a) the investigation by the Regulator;

(b) the notice under regulation 36; or

(c) the warrant issued under regulation 40,

that gave rise to the restriction.

(3) The requirement to give a notice under paragraph (2) must be complied with no later than 7 business days after the date of the Regulator's decision.

(4) Paragraphs (5) to (9) apply where the Regulator gives a notice under this regulation.

(5) The notice must be in writing.

(**3**) 1971 c. 80.

(6) The notice must identify the restriction concerned.

(7) The notice must state that the restriction concerned ceases to apply.

(8) The Regulator must give a notice for each restriction on surrender that applies.

(9) In this regulation "restriction" means the restriction on surrender of authorisation that applies under regulation 14(3), (4) or (5)".

(6) After regulation 47 (procedure for cancellation etc.) insert—

"PART 11

FINANCIAL PENALTIES

Requirement to pay a penalty

48.—(1) If, after investigation of an alleged or suspected failure by an authorised person to comply with a condition of authorisation that applies by virtue of regulation 12(5)(a), (b), (d), (h) or (i), the Regulator is satisfied that the authorised person has failed to comply with the condition the Regulator may require the authorised person to pay a penalty.

(2) If an authorised person does not comply with a notice given by the Regulator under regulation 36, the Regulator may require the authorised person to pay a penalty.

(3) Paragraph (4) applies where a warrant has been issued under regulation 40 by virtue of an application under regulation 37.

(4) If an authorised person obstructs an attempt to—

(a) enter and search premises in accordance with the warrant;

(b) take possession of written or electronic records in accordance with an authorisation under regulation 40(4); or

(c) take copies of written or electronic records in accordance with regulation 43,

the Regulator may require the authorised person to pay a penalty.

(5) In a case where the Regulator requires an authorised person to pay a penalty under paragraph (2) or (4) the authorised person required to pay the penalty may not at any time be convicted of an offence under section 10 of the Act in respect of the act or omission giving rise to the penalty.

Determining the amount of a penalty

49.—(1) The Regulator must determine the amount of any penalty that an authorised person is required to pay under regulation 48 in accordance with this regulation and regulation 50.

(2) The amount of the penalty must be—

(a) for an authorised person whose business has a relevant turnover of less than £500,000, no more than £100,000;

(b) for an authorised person whose business has a relevant turnover of £500,000 or more, no more than 20 per cent of that turnover.

(3) The amount of the penalty may be the same as or greater or less than the proposed amount set out in the notice under regulation 51(1)(b).

(4) When determining the amount of the penalty that an authorised person is required to pay under regulation 48(1), (2) or (4) the Regulator must have regard to—