

STATUTORY INSTRUMENTS

2015 No. 542

**The Alternative Dispute Resolution for Consumer Disputes
(Competent Authorities and Information) Regulations 2015**

PART 2 U.K.

Competent Authorities and ADR Entities

Functions and designation of competent authorities U.K.

- 8.—(1) A competent authority must perform the functions set out in this Part.
- (2) Each [^{F1}person] specified in the first column of Part 1 of Schedule 1 is—
- (a) a competent authority for the purposes of these Regulations, and
 - (b) the relevant competent authority in relation to alternative dispute resolution services offered by the [^{F1}person] specified alongside it in the second column of Part 1 of Schedule 1.
- (3) Subject to paragraph (2), each [^{F1}person] specified in Part 2 of Schedule 1 is—
- (a) a competent authority for the purposes of these Regulations in relation to the area for which it has regulatory responsibility or any area for which it has oversight under any enactment, and
 - (b) the relevant competent authority in relation to an ADR entity or ADR applicant which offers alternative dispute resolution services in that area.
- (4) The Secretary of State is the relevant competent authority in relation to—
- (a) alternative dispute resolution services offered by the Pensions Ombudsman, and
 - (b) an ADR entity or ADR applicant which offers alternative dispute resolution services in an area other than one referred to in paragraph (3).

Textual Amendments

- F1** Word in Regulations substituted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), **reg. 2(2)**

Consumer information regarding the ODR platform U.K.

^{F2}**8A.**

Textual Amendments

- F2** [Reg. 8A](#) omitted (31.12.2020) by virtue of [The Consumer Protection \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1326\)](#), **regs. 1(3), 9(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Status: Point in time view as at 31/12/2020.

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Assessment of application to become an ADR entity U.K.

9.—(1) An ADR applicant may apply to the relevant competent authority to become an ADR entity.

(2) The ADR applicant must supply with an application—

- (a) the information in Schedule 2; and
- (b) such other information as the competent authority may require in order to assess whether the ADR applicant meets the requirements in Schedule 3.

(3) The information referred to in paragraph (2) must be provided in such form as the competent authority may require.

(4) The competent authority may only approve an application if it is satisfied that—

- ^{F3}(a)
- (b) the requirements in Schedule 3—
 - (i) have been met by the ADR applicant, or
 - (ii) will be met by the ADR applicant within a reasonable period of time of the application being granted.

(5) Where—

- (a) an enactment contains the power for a competent authority to impose additional requirements which go beyond those set out in Schedule 3, and
- (b) such requirements, including issuing binding solutions on traders, are imposed for the purpose of ensuring a higher level of consumer protection,

such requirements shall be deemed to be included in Schedule 3 for the purposes of this regulation, regulations 12 and 13(1) and (2) and paragraph (i) of Schedule 2.

(6) Where an application is approved, the competent authority must as soon as is reasonably practicable give written notice to the ADR applicant.

(7) Where an application is rejected, the competent authority must as soon as is reasonably practicable give written notice of this fact to the ADR applicant, which must include the grounds on which it has rejected the application.

^{F4}(8)

Textual Amendments

F3 Reg. 9(4)(a) omitted (9.7.2015) by virtue of [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(6)**

F4 Reg. 9(8) omitted (9.7.2015) by virtue of [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(6)**

Listing of ADR entities U.K.

10.—(1) A competent authority must maintain a list of the ADR applicants which have been approved by it to become an ADR entity under regulation 9(4) and that list must include the information in Schedule 4 in respect of each ADR applicant.

(2) A competent authority must, without undue delay following compilation of a list, send the list to the [^{F5}Secretary of State].

(3) If under regulation 11(1) a competent authority receives notification from an ADR entity containing information which differs from the information included in relation to that ADR entity in the list maintained under paragraph (1), the competent authority must—

- (a) amend the list to reflect the change in that information, and
- (b) without undue delay, send the amended list to the [^{F5}Secretary of State].

Textual Amendments

F5 Words in [reg. 10](#) substituted (31.12.2020) by [The Consumer Protection \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1326\)](#), [regs. 1\(3\), 9\(6\)](#); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Ongoing information obligations of an ADR entity **U.K.**

11.—(1) In the event of a change to the information which an ADR entity has supplied under regulation 9(1), the ADR entity must, without undue delay, provide written notification of the change to the competent authority.

(2) An ADR entity must, within a month of the first anniversary of the approval date and within a month of each subsequent anniversary, publish on its website a report (“an annual activity report”) relating to the preceding year which contains the information in Schedule 5.

(3) The ADR entity must, within a month of the second anniversary of the approval date and within a month of the expiry of each successive period of two years, supply the relevant competent authority with the information in Schedule 6 relating to the preceding two year period.

(4) The annual activity report and information to be provided under paragraph (3) must be in such form as the competent authority may require.

(5) In this regulation “approval date” means the date of the written notice granting approval to the ADR entity under regulation 9(6).

Ongoing assessment of an ADR entity **U.K.**

12. Following receipt of the information received under regulation 11(3) the competent authority must review the information and assess whether the ADR entity still meets the requirements in Schedule 3.

Removal of approval **U.K.**

13.—(1) A competent authority must provide notice in writing to an ADR entity approved by it under regulation 9(4) if the competent authority has reason to believe that—

- (a) the ADR entity no longer meets a requirement in Schedule 3; and
- (b) the reason the ADR entity no longer meets the requirement is within its control.

(2) The written notice must—

- (a) identify the requirement in Schedule 3 which is no longer met; and
- (b) require the ADR entity to meet the requirement promptly or in any event within 3 months of the date of the notice.

(3) If the ADR entity fails to meet the requirement notified to it on or before the expiry of the period specified in paragraph (2), and the competent authority considers that the failure to meet the requirement is sufficiently serious, the competent authority must—

- (a) send notice in writing to the ADR entity of the withdrawal of its approval, and

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(b) without undue delay, remove the ADR entity from the list maintained by it under regulation 10(1).

(4) If a competent authority removes an ADR entity from the list under paragraph (3) it must, without undue delay, send the revised list to the [F6Secretary of State].

Textual Amendments

F6 Words in reg. 13(4) substituted (31.12.2020) by The Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1326), regs. 1(3), 9(7); 2020 c. 1, Sch. 5 para. 1(1)

Notification of the consolidated ADR entity list U.K.

14.—[F7(1)] A competent authority must make the consolidated list of ADR entities published by the [F8Secretary of State]—

- (a) publicly available on its website by means of a link to [F9a website nominated by the Secretary of State]; and
- (b) available on request by a member of the public on a durable medium.

[F10(2)] An ADR entity must make the consolidated list of ADR entities published by the [F11Secretary of State] publicly available—

- (a) on its website by means of a link to [F12a website nominated by the Secretary of State]; and
- (b) wherever possible, at the ADR entity’s premises on a durable medium.]

Textual Amendments

- F7 Reg. 14(1): reg. 14 renumbered as reg. 14(1) (9.7.2015) by The Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 (S.I. 2015/1392), regs. 1(2), 2(7)(a)
- F8 Words in reg. 14(1) substituted (31.12.2020) by The Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1326), regs. 1(3), 9(8)(a)(i); 2020 c. 1, Sch. 5 para. 1(1)
- F9 Words in reg. 14(1) substituted (31.12.2020) by The Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1326), regs. 1(3), 9(8)(a)(ii); 2020 c. 1, Sch. 5 para. 1(1)
- F10 Reg. 14(2) inserted (9.7.2015) by The Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 (S.I. 2015/1392), regs. 1(2), 2(7)(b)
- F11 Words in reg. 14(2) substituted (31.12.2020) by The Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1326), regs. 1(3), 9(8)(b)(i); 2020 c. 1, Sch. 5 para. 1(1)
- F12 Words in reg. 14(2) substituted (31.12.2020) by The Consumer Protection (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1326), regs. 1(3), 9(8)(b)(ii); 2020 c. 1, Sch. 5 para. 1(1)

[F13The ADR entity’s duty to cooperate U.K.]

14A.—(1) The ADR entity must take reasonable steps to—

- [F14(a)
- (b) conduct regular exchanges of best practices with other ADR entities regarding the settlement of [F15... domestic disputes.

(2) The ADR entity must take such steps as it considers appropriate to cooperate with bodies or persons [F16which are enforcers under Part 8 of the Enterprise Act 2002].

(3) Cooperation under paragraph (2) includes, in particular, exchange of information on practices in specific business sectors about which consumers have repeatedly lodged complaints.]

Textual Amendments

- F13** Regs. 14A-14C inserted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(8)**
- F14** [Reg. 14A\(1\)\(a\)](#) omitted (31.12.2020) by virtue of [The Consumer Protection \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1326\)](#), regs. 1(3), **9(9)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F15** Words in [reg. 14A\(1\)\(b\)](#) omitted (31.12.2020) by virtue of [The Consumer Protection \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1326\)](#), regs. 1(3), **9(9)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F16** Words in [reg. 14A\(2\)](#) substituted (31.12.2020) by [The Consumer Protection \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1326\)](#), regs. 1(3), **9(9)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F13}Agreement to submit disputes to an ADR entity] **U.K.**

14B. An agreement between a consumer and a trader to submit a ^{F17}... domestic dispute to an ADR entity is not binding on the consumer to the extent that the agreement—

- (a) was concluded before the ^{F17}... domestic dispute materialised; and
- (b) has the effect of depriving the consumer of the right to bring judicial proceedings in relation to the ^{F17}...domestic dispute.]

Textual Amendments

- F13** Regs. 14A-14C inserted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(8)**
- F17** Words in [reg. 14B](#) omitted (31.12.2020) by virtue of [The Consumer Protection \(Amendment etc.\) \(EU Exit\) Regulations 2018 \(S.I. 2018/1326\)](#), regs. 1(3), **9(10)**; 2020 c. 1, Sch. 5 para. 1(1)

[^{F13}Binding outcome requirements] **U.K.**

14C.—(1) Where an ADR entity aims at resolving a dispute by imposing a solution, the solution will not be binding on a party to the dispute unless—

- (a) the ADR entity notifies the party that the outcome will be binding; and
- (b) the party specifically accepts that the outcome will be binding.

(2) The requirements under paragraph (1) must be met before the ADR entity notifies the party of the outcome of the alternative dispute resolution procedure.

(3) Paragraph (1)(b) does not apply in relation to a trader where an enactment, the rules of a trade association, or term of a contract, provides that the solution will be binding on the trader.]

Textual Amendments

- F13** Regs. 14A-14C inserted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(8)**

[^{F18}Fees payable to the Secretary of State] **U.K.**

15.—(1) Where the competent authority is the Secretary of State, the competent authority may charge—

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- (a) an ADR applicant a fee in respect of the costs incurred by or on behalf of the Secretary of State in evaluating an application made under regulation 9, and
- (b) an ADR entity a periodic fee, in respect of costs incurred by or on behalf of the Secretary of State in carrying out the functions of the Secretary of State under regulations 10 ^[F19] and 12].

(2) The fees referred to above shall not exceed the amount of all reasonable costs and expenses incurred by or on behalf of the Secretary of State in evaluating an application and carrying out the other functions referred to above, which shall include a sum calculated at the rate of £750 for every day, (based upon an eight hour day) spent by each person in carrying out the relevant function (which shall be pro-rated in respect of any period less than a day spent by any person).

(3) The fees are payable on invoice, to the Secretary of State, or such person as the Secretary of State may direct, and any unpaid fee may be recovered by the Secretary of State as a civil debt.

(4) The Secretary of State is not required to approve an application under ^[F20]regulation] 9(4) if there is a fee outstanding under this regulation in relation to that application.

Textual Amendments

- F18** Words in reg. 15 heading substituted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(9)(a)**
- F19** Words in reg. 15(1)(b) substituted (9.1.2016) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) \(No. 2\) Regulations 2015 \(S.I. 2015/1972\)](#), regs. 1, **7(3)**
- F20** Word in reg. 15(4) substituted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(9)(b)**

^[F21]Fees payable to the Financial Conduct Authority **U.K.**

15A.—(1) The functions of the FCA under these Regulations are to be treated for the purposes of paragraph 23 of Schedule 1ZA to the 2000 Act (fees) as qualifying functions conferred on the FCA under that Act with the following modifications—

- (a) rules made under paragraph 23 by virtue of this regulation may not provide for payment of fees by any person other than the scheme operator as defined in section 225(2) of the 2000 Act (the ombudsman scheme);
- (b) rules made under paragraph 23 by virtue of this regulation are not to be treated as regulating provisions for the purposes of Chapter 4 of Part 9A of the 2000 Act (competition scrutiny);
- (c) in relation to the first rules made under paragraph 23 by virtue of this regulation, section 1381 of the 2000 Act (consultation by the FCA) does not apply.

(2) In this regulation—

“the 2000 Act” means the Financial Services and Markets Act 2000;

“the FCA” means the Financial Conduct Authority as defined in section 1A of the 2000 Act (the regulators).]

Textual Amendments

- F21** Reg. 15A inserted (9.7.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Amendment\) Regulations 2015 \(S.I. 2015/1392\)](#), regs. 1(2), **2(10)**

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Consequential amendments **U.K.**

16. Schedule 7 makes amendments that are consequential on these Regulations.

Status:

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