
DRAFT STATUTORY INSTRUMENTS

2018 No.

FINANCIAL SERVICES AND MARKETS

The Financial Services and Markets Act 2000
(Claims Management Activity) Order 2018

*Made - - - - - ***
Coming into force in accordance with article 1(2)
and (3)*

THE FINANCIAL SERVICES AND MARKETS ACT 2000
(CLAIMS MANAGEMENT ACTIVITY) ORDER 2018

PART 1

Introductory provisions

1. Citation, commencement, interpretation and extent
2. Carrying on a regulated claims management activity in Great Britain

PART 2

Amendments to secondary legislation made under the 2000 Act

3. The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001
4. In article 4 (specified activities: general), after paragraph (2A) insert—...
5. In article 64 (agreeing to carry on specified kinds of...
6. In article 72A (information society services), after paragraph (1) insert—...
7. After Part 3A insert— PART 3B CLAIMS MANAGEMENT ACTIVITIES
IN...
8. The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005
9. In article 2 (interpretation: general), in the appropriate place, insert—...
10. In article 4— (a) in the heading of the article,...
11. In article 8 (interpretation: solicited and unsolicited real time communications)—...
12. In paragraph (1) of article 11 (combination of different exemptions)...
13. In article 12 (communications to overseas recipients)—
14. In paragraph (1) of article 13 (communications from customers and...
15. In paragraph (2) of article 14 (follow up non-real time...

16. In paragraph (1A) of article 15 (introductions) after sub-paragraph (c)...
17. In article 16 (exempt persons) in paragraph (1) sub-paragraph (c)...
18. In article 17 (generic promotions)— (a) at the end of...
19. In article 19 (investment professionals) after paragraph (6) insert —...
20. In article 20 (communications by journalists) in paragraph (3)—
21. In article 27 (application of exemptions in Part 6) after...
22. In article 28 (one off non-real time communications and solicited...
23. In article 28A (one off unsolicited real time communications) after...
24. In article 30 (overseas communicators: solicited real time communications) after...
25. In article 31 (overseas communicators: non-real time communications to previously...
26. In article 32 (overseas communicators: unsolicited real time communications to...
27. In article 33 (overseas communicators: unsolicited real time communications to...
28. Article 36 (nationals of EEA States other than United Kingdom)...
29. In article 39 (joint enterprises) in paragraph (2) after “controlled...
30. In article 47 (persons in the business of disseminating information)...
31. In article 49 (high net worth companies, unincorporated associations etc)...
32. In article 55A (non-real time communication by members of professions) —...
33. In article 59 (annual accounts and directors’ report) in paragraph...
34. In article 61 (sale of goods and supply of services)...
35. In article 73 (advice centres) in paragraph (2)—
36. After article 73 (advice centres) insert— PART 6A EXEMPT COMMUNICATIONS:...
37. After article 73J (inserted by article 36) insert— PART 7...
38. After paragraph 11 of Schedule 1 (controlled activities) insert— PART...

PART 3

Transitional provisions

CHAPTER 1

Interpretation

39. Interpretation

CHAPTER 2

Authorisation and regulation of 2006 Act authorised persons

40. Meaning of “relevant person”
41. Applications for authorisation made to the Regulator: authorisation by the FCA
42. Applications for authorisation made to the Regulator: appeal of decision
43. Proposal by the Regulator to vary authorisation: determination by the FCA
44. Variation of authorisation by the Regulator: appeal of decision
45. Proposal by the Regulator to cancel authorisation: determination by the FCA
46. Cancellation of authorisation by the Regulator: appeal of decision

47. Proposal by the Regulator to suspend authorisation: determination by the FCA
48. Suspension of authorisation by the Regulator: appeal of decision
49. Notice by the Regulator of proposed direction
50. Compliance with information requirement imposed by the Regulator
51. Penalties for conduct for which the Regulator has not given notice of proposed penalty
52. Penalties for conduct for which the Regulator has given notice of proposed penalty
53. Penalties for conduct for which the Regulator has given penalty decision: appeal of decision
54. Penalties for conduct for which the Regulator has given penalty decision: penalty due
55. Investigation and prosecution after 1st April 2019 in relation to conduct before that date
56. Unprofessional conduct: continuation of investigation commenced by the Regulator
57. Offences under the 2006 Act: continuation of investigation commenced by the Regulator and institution of criminal proceedings
58. Continuation of criminal proceedings instituted by the Regulator
59. Continuation of injunction applications made by the Regulator
60. Continuation of application made by the Regulator for a search warrant
61. Retention of records seized by an officer of the Regulator
62. Decision notices
63. Conditions and directions
64. Fees and invoices

CHAPTER 3

Appeals and references

65. Continuation of appeals commenced before 1st April 2019
66. Right to appeal after 1st April 2019 against a decision of the Regulator
67. Continuation of references made by the Regulator to the First-tier Tribunal

CHAPTER 4

Complaints: the Legal Ombudsman and the Financial Ombudsman Service

68. Interpretation
69. Complaints made before 1st April 2019 not concluded by that date
70. Complaints made on or after 1st April 2019 about acts or omissions before that date
71. Procedure for dealing with relevant complaints
72. Determination of relevant existing complaints
73. Determination of relevant new complaints
74. Funding and charges
75. Surplus fees
76. Exemption from liability in damages
77. Privilege
78. Record-keeping and reporting requirements relating to relevant complaints
79. Information and reports

CHAPTER 5

Temporary Permission

80. Temporary permission
81. Procedure for notifying the FCA of a desire to be registered for temporary permission
82. Duration of temporary permission
83. Application of the 2000 Act to persons with a temporary permission

PART 4

Rules and guidance

84. Claims management related rules and guidance made by the FCA
85. Designation by the FCA of the Regulator's Rules

PART 5

Miscellaneous

86. Interpretation
87. Legal professional privilege
88. Complaints against the Regulator where no determination made before 1st April 2019
89. Definition of "consumer"

PART 6

Consequential amendments, revocations and saving and supplemental provisions

CHAPTER 1

Amendment of primary legislation

90. Courts and Legal Services Act 1990
91. Financial Services and Markets Act 2000
92. Enterprise Act 2002
93. Compensation Act 2006
94. Tribunals, Courts and Enforcement Act 2007
95. Legal Services Act 2007
96. Legal Aid, Sentencing and Punishment of Offenders Act 2012
97. Crime and Courts Act 2013
98. Financial Services (Banking Reform) Act 2013

CHAPTER 2

Amendment of secondary legislation

99. Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001
100. Legislative and Regulatory Reform (Regulatory Functions) Order 2007
101. Legal Services Act 2007 (Disclosure of Restricted Information) Order 2011
102. Damages-Based Agreements Regulations 2013
103. Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013

104. Economic Growth (Regulatory Functions) Order 2017

CHAPTER 3

Revocations

105. Revocations

CHAPTER 4

Saving and supplemental provisions

SECTION 1

General provision

106. General scope of saving provisions

SECTION 2

Primary legislation

- 107. Courts and Legal Services Act 1990
- 108. Compensation Act 2006
- 109. Legal Services Act 2007
- 110. Legal Aid, Sentencing and Punishment of Offenders Act 2012

SECTION 3

Secondary legislation

- 111. Compensation (Claims Management Services) Regulations 2006
- 112. Damages-Based Agreements Regulations 2013

PART 7

Review

- 113. Review
 - Signature
 - Explanatory Note