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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

The Regulations are made under the Compensation Act 2006 (1) (the Act). Under the Act, “regulated claims management service” means a claims management service of a kind prescribed by order by the Secretary of State(2), and “claims management services” include services in relation to claims for compensation, restitution, repayment or any other remedy or relief in respect of loss or damage, or in respect of an obligation.

Part 1 of the Regulations provides for preliminary matters such as definitions.

Part 2 of the Regulations makes provision about waiver, by the Regulator appointed under the Act, of the requirement for a person who provides regulated claims management services to be authorised. Such a waiver will be granted to a person only if the Regulator is satisfied that the Secretary of State intends to exempt the person from that requirement under section 6 of the Act, and only for a maximum period of six months. A waiver cannot be renewed.

Members of certain professions whose professional conduct is already regulated (in particular, barristers, solicitors and legal executives), and certain other classes of person that are regulated in other ways, will be exempted from Part 2 of the Act by order by the Secretary of State. Certain persons or bodies that provide regulated claims management services on a not-for-profit basis will also be exempted.

Part 3 of the Regulations deals with applications for authorisation to provide regulated claims management services.

Part 4 of the Regulations authorises the Regulator to prescribe fees for application for and grant of authorisations and the renewal of authorisations. The fees must be approved by the Secretary of State.

The Act requires the regulations to require the Regulator to prescribe rules, and to authorise the Regulator to issue a code or codes of practice, with which authorised persons must comply (see paragraph 8 of the Schedule to the Act). Part 6 of the Regulations sets out the requirements for those rules and codes of practice.

Part 7 of the Regulations sets out the scheme for review by the Regulator of an authorised person’s handling of complaints. The Regulator may review the authorised person’s records and may give the authorised person directions about the future handling of the complaint or of complaints generally.

Part 8 of the Regulations provides for the Regulator to audit an authorised person’s records, at a reasonable time and on reasonable notice. The authorised person is however not obliged to show the Regulator anything that is an item subject to legal privilege, as defined in the Police and Criminal Evidence Act 1984.

Part 9 of the Regulations provides for enforcement. It deals with the investigation of allegations or suspicion that a person has breached section 4 of the Act. A person who provides a regulated claims management service commits an offence under section 4 of the Act unless he is authorised under Part 2 to provide the service, is exempt under that Part or has the benefit of a waiver of the requirement to be authorised.

If a person is alleged or suspected to have breached section 4 of the Act, the Regulator may require a person to provide information or documents to enable the Regulator to investigate the allegation.

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(1) 2006 c. 29.

(2) See the Compensation (Regulated Claims Management Services) Order 2006, SI 2006/....

**Status:** *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

Chapter 3 of Part 9 deals with the investigation of allegations or suspicion that authorised persons have failed to comply with conditions of authorisation. It also provides for circumstances in which the Regulator may apply to a Judge of the High Court, Circuit judge or justice of the peace for a search warrant.

Chapter 4 of Part 9 deals with search warrants generally. Regulations 39 to 45 are intended to reproduce, as nearly as possible and as far as applicable, the effect of sections 8 to 22 (except sections 17 and 18, which are not relevant) of the Police and Criminal Evidence Act 1984, which deal generally with the issue and execution of search warrants. A Regulator's officer applying for or executing a warrant is required to have regard to the codes issued by the Home Secretary under the Police and Criminal Evidence Act 1984 for searches of premises. Note that there is no power to seize documents.

Part 10 deals with suspension and cancellation of an authorisation. An authorised person whose authorisation is cancelled, suspended or varied has the right of appeal to the Claims Management Services Tribunal and to the Court of Appeal.