
STATUTORY INSTRUMENTS

2006 No. 3322

The Compensation (Claims Management Services) Regulations 2006

PART 9

INVESTIGATION

CHAPTER 3

INVESTIGATION—FAILURES BY AUTHORISED PERSONS
TO COMPLY WITH CONDITIONS OF AUTHORISATION

Regulator to investigate complaints or suspicions of unprofessional conduct

35.—(1) If a person complains to the Regulator about the professional conduct of an authorised person, the Regulator may investigate the complaint.

(2) The Regulator may also investigate the professional conduct of an authorised person if the Regulator is satisfied, otherwise than as a result of a complaint, that—

- (a) there are reasonable grounds to suspect that the authorised person has failed to comply with a condition of authorisation; and
- (b) the alleged or suspected breach is serious enough to justify investigation.

(3) In making the decision whether or not to investigate, the Regulator must take into account—

- (a) the source of any allegation made against the authorised person, and whether the allegation is credible;
- (b) if the grounds for the suspicion are not an allegation or allegations against the person, what those grounds are and the credibility of their source;
- (c) whether the person also engages in another business activity and, if so, what that activity is and its relationship to the business of the provision of claims management services;
- (d) whether there have been other credible allegations against, or suspicions about, the person of failure to comply with a condition of authorisation;
- (e) anything in the Regulator's records about the person that is relevant to the person's conduct as an authorised person, including, in particular—
 - (i) the person's application to become an authorised person;
 - (ii) any statements by the person under regulation 12(5)(f) to the effect that he has complied with conditions of the authorisation;
 - (iii) any audit and inspection reports held by the Regulator; and
 - (iv) any previous allegations against, or suspicions about, the person that the Regulator reasonably considers to have been well founded, even if no action was taken against the person;

- (f) any report in the media;

- (g) any advertising by the person;
- (h) any other publicly available information about the person; and
- (i) any information or documents provided by the person in answer to a requirement under regulation 36.

Breaches by authorised persons of condition: requirement to provide information etc

36.—(1) For the purpose of making a decision under regulation 35, the Regulator may require an authorised person to give the Regulator information or documents relevant to the decision.

- (2) The requirement must be by notice in writing.
- (3) Such a notice—
 - (a) must specify or describe the information or documents to be given to the Regulator; and
 - (b) must specify the place at which, and the period within which, the information or documents are to be given to the Regulator; and
 - (c) may specify the form in which the information or a document is to be given.
- (4) If such a notice specifies that information or a document is to be given in a particular form, it has not been complied with until the information or document is given in that form.
- (5) The period specified must be a period that is, in all the circumstances, reasonable.
- (6) The Regulator may allow more time for the information or documents to be provided if—
 - (a) the person required to give the information or documents so requests in writing; and
 - (b) the Regulator is satisfied that, in the circumstances, it is reasonable to allow the extra time.
- (7) Nothing in this regulation authorises a search of any premises.

Search warrants for purposes of investigation of professional conduct

37.—(1) The Regulator may apply to a judicial officer for a search warrant to authorise a search of premises if the Regulator is satisfied, on the basis of information available to the Regulator as a result of a request for information or documents under regulation 36, that—

- (a) an authorised person has failed to comply with a condition of authorisation; and
 - (b) information or documents relevant, and of substantial value, to the investigation of the apparent failure are likely to be found at the premises.
- (2) The Regulator may apply to a judicial officer for a search warrant to authorise a search of premises if—
- (a) there is reason to believe that—
 - (i) an authorised person has failed to comply with a condition of authorisation; and
 - (ii) information or documents relevant, and of substantial value, to the investigation of the apparent failure are likely to be found at the premises; and
 - (b) paragraph (3) or (5) applies in the particular case.
- (3) This paragraph applies if—
- (a) the Regulator has required the authorised person to give the Regulator information or documents under regulation 36; and
 - (b) the authorised person has not done so within the period permitted by the requirement.
- (4) An application for a search warrant in relation to which paragraph (3) applies must set out the steps taken to require the person to provide information or documents under regulation 36, and the person’s response, if any.

(5) This paragraph applies if there is reason to believe that if the Regulator required the authorised person to give information or documents under regulation 36, documents relevant to the investigation of the apparent failure would be removed, tampered with or destroyed.

(6) A judicial officer must not issue a search warrant under this regulation unless he is satisfied that the warrant is for the purpose of—

- (a) investigating a complaint about the activities of an authorised person; or
- (b) assessing compliance with a condition or conditions of an authorisation.