

**EXPLANATORY MEMORANDUM TO
THE CLAIMS MANAGEMENT SERVICES TRIBUNAL RULES 2007**

2007 No. 90

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs (DCA) and is laid before Parliament by Command of her Majesty.
- 2. Description**
 - 2.1 The Claims Management Services Tribunal Rules 2007 ('the Rules') set out the processes and procedures to be followed in relation to appeals brought before the Claims Management Services Tribunal ('the Tribunal').
- 3. Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
- 4. Legislative Background**
 - 4.1 Section 12 of the Compensation Act ('the Act') establishes the Claims Management Services Tribunal as an appeal route for decisions of the Claims Management Services Regulator ('the Regulator'). The Rules detail the processes and procedures under which the Tribunal will operate.
- 5. Extent**
 - 5.1 This instrument applies to England and Wales only.
- 6. European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
- 7. Policy Background**
 - 7.1 Regulation of the claims management industry was recommended by the Better Regulation Task Force (BRTF) in its report "*Better Routes to Redress*". The BRTF recommended, and the Government accepted, the industry should attempt self-regulation on a voluntary basis in the first instance and if this did not prove to be successful the Government should bring forward statutory regulation.
 - 7.2 The Claims Standard Council (CSC) was established in 2003 to provide voluntary regulation and while many companies became members many others did not support this attempt at self-regulation. The Compensation Bill was therefore introduced to provide the required statutory regulation and received Royal Assent on 25th July 2006.
 - 7.3 It is estimated that there are approximately 500 companies operating in the claims management services sector.

- 7.4 The Act lists the categories of persons who are entitled to provide claims management services. The Act establishes a Regulator who is responsible for deciding who is entitled to provide those services and to regulate the conduct of such persons (including ensuring that they provide adequate redress following a complaint from their clients). The powers of the Regulator in relation to the providers of claims management services are provided in the Compensation (Claims Management Services) Regulations 2006, as authorised by sections 8, 9 and 15 of the Act. The Regulator will ensure better safeguards for consumers of claims management services, encourage the provision of quality services, enhance consumer protection and provide consumers with a clear route to redress. The provisions of the Act are therefore politically and legally important.
- 7.5 Regulation by the Regulator will initially be applied to areas where customers are most at risk – personal injury, criminal injuries compensation, employment, housing disrepair and claims in relation to certain financial products or services and industrial injuries disablement benefits. However the definition of Claims Management Services in the Act is wide to allow for new areas to be brought within the scope of regulation where problems arise, and for areas to be removed from scope where problems subside.
- 7.6 Rule 12 of the Act provides for the Tribunal to be set up to provide an independent body to hear appeals of decisions made by the Regulator in relation to the authorisation of those entitled to provide claims management services. Rule 12(4) provides for the Lord Chancellor to make the rules about the proceedings of the Tribunal. The Rules are therefore legally important in that they ensure that service providers are afforded a fair and efficient route for redress against the decisions of the Regulator. The Rules also facilitate the work of the Tribunal, ensuring that proper regulation of claims management services, as intended by the Act, is taking place.
- 7.7 A person may appeal to the Tribunal if the Regulator:
- (a) refuses the person's application for authorisation,
 - (b) grants the person authorisation on terms or subject to conditions,
 - (c) imposes conditions on the person's authorisation
 - (d) suspends the person's authorisation, or
 - (e) cancels the person's authorisation.
- There is also provision for a person to apply to the Tribunal for suspension of effect of a decision of the Regulator which can be made before, or at the same time as, an appeal is filed.
- 7.8 The Rules are broken down into the following five parts:
- Part 1: introduces the Rules and includes interpretation of terms used in the Rules.
 - Part 2: contains preliminary matters, which take place prior to the appeal hearing.
 - Part 3: applies when the appeal hearing is commenced.
 - Part 4: makes provision for appeals from the Tribunal to the Court of Appeal in England and Wales.

Part 5: makes provision for general matters such as the register kept by the Tribunal and the rules that apply to the sending of notices.

Each required procedure for processing appeals to the Tribunal is contained within one of these parts. The Rules give effect to the objective of the Act to ensure the proper regulation of those providing claims management services.

- 7.9 Consultation of the Tribunal Rules was carried out, beginning on 10th October 06 and ending on 21st November 06. The period was reduced to six weeks to allow for the earliest possible commencement date of the Tribunal. Comments were sought from the claims management industry, lawyers the judiciary and the Council on Tribunals. In addition, the consultation documents were published on the DCA website.
- 7.10 Only a small number of responses to the consultation were received including from judiciary and from the Council on Tribunals. Due consideration was given to those responses, which largely related to minor drafting points, and, where appropriate the Tribunal Rules were amended. There were no contentious or controversial issues raised.
- 7.11 The Tribunal is due to be operational from 14th February 2007 and it is expected to receive no more than 20 appeals per annum. It will be administered within the Finance and Tax Tribunals in Bedford Square and the members of the Financial Services and Markets Tribunal shall also be members of the Claims Management Services Tribunal.

8. Impact

- 8.1 A Regulatory Impact Assessment (RIA) was prepared for the Compensation Bill [2006]. The Claims Management Services Tribunal Rules alone do not have any impact on business, charities or voluntary bodies therefore a further RIA has not been prepared.

9. Contact

- 9.1 Christine Lloyd at the Department for Constitutional Affairs (telephone: 0191 2526040; email christine.lloyd@tribunals.gsi.gov.uk) can answer any queries regarding this instrument.