
STATUTORY INSTRUMENTS

2018 No. 1253

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

PART 2

Amendments to secondary legislation made under the 2000 Act

The Financial Services and Markets Act 2000 (Financial Promotion) Order 2005

38. After paragraph 11 of Schedule 1 (controlled activities) insert—

“PART 1A

CONTROLLED CLAIMS MANAGEMENT ACTIVITY

11A.—(1) A claims management activity carried out in Great Britain is a controlled claims management activity.

(2) For the purposes of this paragraph, a claims management activity is one of the following activities:

- (a) seeking out persons who may have a claim, referring details of a claim or potential claim or a claimant or potential claimant to another person (including a person having the right to conduct litigation), or identifying a claim or potential claim or a claimant or potential claimant in respect of—
 - (i) a personal injury claim;
 - (ii) a financial services or financial product claim;
 - (iii) a housing disrepair claim;
 - (iv) a claim for a specified benefit;
 - (v) a criminal injury claim; or
 - (vi) an employment related claim.
- (b) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a personal injury claim;
- (c) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a financial services or financial product claim;
- (d) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a housing disrepair claim;
- (e) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a claim for a specified benefit;
- (f) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of a criminal injury claim; or

- (g) advising a claimant or potential claimant, investigating a claim or representing a claimant in respect of an employment related claim.
- (3) In this paragraph—
- (a) “claimant” includes, in civil proceedings in Scotland, a pursuer;
- (b) “defendant” includes, in civil proceedings in Scotland, a defender;
- (c) “personal injury claim” means a claim for personal injury within the meaning of the Civil Procedure Rules 1998⁽¹⁾ in England and Wales and an action for damages for, or arising from, personal injuries within the meaning set out in section 8(7) of the Civil Litigation (Expenses and Group Proceedings) (Scotland) Act 2018⁽²⁾ in Scotland;
- (d) “financial services or financial product claim” includes a claim made under section 75 of the Consumer Credit Act 1974⁽³⁾;
- (e) “housing disrepair claim” means a claim under section 11 of the Landlord and Tenant Act 1985⁽⁴⁾ or section 4 of the Defective Premises Act 1972⁽⁵⁾ in England and Wales or an application in respect of the repairing standard under section 22 of the Housing (Scotland) Act 2006⁽⁶⁾, or claims in relation to the disrepair of premises under a term of a tenancy agreement or lease or under the common law relating to nuisance or negligence but does not include claims for statutory nuisance under section 82 of the Environmental Protection Act 1990⁽⁷⁾;
- (f) “a claim for a specified benefit” means a claim for one of the following benefits—
- (i) industrial injuries benefit, within the meaning given by section 94 of the Social Security Contributions and Benefits Act 1992⁽⁸⁾;
- (ii) any supplement or additional allowance, or increase of benefit or allowance to which a recipient of an industrial injuries benefit may be entitled under that Act or any other Act;
- (iii) a benefit under a scheme referred to in paragraph 2 or 4 of Schedule 8 to that Act; or
- (iv) a benefit under the Pneumoconiosis etc. (Workers’ Compensation) Act 1979⁽⁹⁾.
- (g) “criminal injury claim” means a claim under the Criminal Injuries Compensation Scheme established under the Criminal Injuries Compensation Act 1995⁽¹⁰⁾;
- (h) “employment related claim” includes a claim in relation to wages and salaries and other employment related payments and claims in relation to wrongful or unfair dismissal, redundancy, discrimination and harassment;
- (i) “investigating” means carrying out an investigation into, or commissioning the investigation of, the circumstances, merits or foundation of a claim; and
- (j) “representing” means representation in writing or orally, regardless of the tribunal, body or person before which or to whom the representation is made.

(1) S.I. 1998/3132.

(2) 2018 asp 10.

(3) 1974 c. 39. Section 75 was amended by S.I. 1983/1878 and 2010/1010.

(4) 1985 c. 70.

(5) 1972 c. 35.

(6) 2006 asp 1.

(7) 1990 c. 43.

(8) 1992 c. 4.

(9) 1979 c. 41.

(10) 1995 c. 53.

(4) In this paragraph, a person is to be treated as carrying on a controlled claims management activity in Great Britain when the activity is carried on—

- (a) by a person who is—
 - (i) an individual who is ordinarily resident in Great Britain; or
 - (ii) a person, other than an individual, who is constituted under the law of England and Wales or Scotland; or
- (b) in respect of a claimant or potential claimant who is—
 - (i) an individual who is ordinarily resident in Great Britain; or
 - (ii) a person, other than an individual, who is constituted under the law of England and Wales or Scotland.

(5) For the purposes of sub-paragraph (4) a person is “ordinarily resident” in Great Britain if that person satisfies the requirements of the Statutory Residence Test as set out in Schedule 45 to the Finance Act 2013⁽¹¹⁾ either—

- (a) at the time of the facts giving rise to the claim or potential claim; or
- (b) at the time when the controlled claims management activity is carried out in respect of that claimant or potential claimant.”.