
STATUTORY INSTRUMENTS

2022 No. 466

**The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) Order 2022**

PART 3

Consequential amendments to the Act and supplemental provisions

Amendment of the Act

- 6.**—(1) The Act is amended as follows.
- (2) In section 165 (regulators’ power to require information: authorised persons etc.)(1)—
- (a) at the end of subsection (11)(c), omit “or”;
- (b) at the end of subsection (11)(d), insert—
- “; or
- (e) involved in the administration of any trust arrangement relating to a funeral plan contract entered into or carried out by A.”;
- (c) after subsection (12)(2), insert—
- “(13) In this section, “funeral plan contract” has the same meaning as in article 59(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (3) In section 166 (reports by skilled persons)(3)—
- (a) in subsection (10), for “or (12)”, substitute “, (12) or (13)”;
- (b) after subsection (12), insert—
- “(13) This subsection applies to a person who is or has at any relevant time been involved in the administration of any trust arrangement relating to a funeral plan contract entered into or carried out by an authorised person.
- (14) In this section, “funeral plan contract” has the same meaning as in article 59(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (4) In section 213 (the compensation scheme)(4), after subsection (13), insert—
- “(14) In this Part, “funeral plan contract” has the same meaning as in article 59(2) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001.”.
- (5) In section 215 (rights of the scheme in insolvency)(5)—

(1) Section 165 was amended by section 41 of, and paragraph 1 of Schedule 12 to, the Financial Services Act 2012. There are other amendments which are not relevant to this Order.

(2) Section 165(12) was inserted by paragraph 4(3) of Schedule 9 to the Financial Services Act 2021 (c. 22).

(3) Section 166 was substituted by section 41 of, and paragraph 5 of Schedule 12 to, the Financial Services Act 2012 and amended by section 2 of, and Schedule 2 to, the Financial Services Act 2021.

(4) There are amendments to section 213 which are not relevant to this Order.

(5) The heading to section 215 was substituted by sections 169 and 175(1) and (4) of the Banking Act 2009 (c. 12).

(a) after subsection (2)(6), insert—

“(2ZA) The compensation scheme may also make provision in relation to a relevant person, or to a successor of a description falling within section 213(1)(b), who enters into or carries out funeral plan contracts and is unable, or likely to be unable, to satisfy claims made against them—

- (a) about rights or obligations in connection with any trust or contract of insurance relating to the funeral plan contracts entered into or carried out by such a person or successor;
- (b) about the effect of a payment of compensation, or of a payment in connection with securing continuity of funeral plan contracts under the scheme, on rights and obligations arising out of matters in connection with which the payment was made;
- (c) giving the scheme manager a right of recovery in respect of the rights or obligations referred to in paragraphs (a) and (b).

(2ZB) The amount required to be paid to the scheme manager under such a right of recovery conferred by the scheme may not exceed the amount paid or (in the opinion of the scheme manager) to be paid out by the scheme manager in connection with those funeral plan contracts.

(2ZC) For the purposes of subsection (2ZA)(a), the provision that may be made includes—

- (a) provision in respect of rights or obligations that came into existence before or after the date on which that subsection comes into force;
- (b) provision to vary existing rights or obligations;
- (c) provision to create new rights in favour of, or obligations to, the scheme manager which override existing rights or obligations.”;

(b) in subsection (2B)(7), for “subsection (2)” substitute “subsection (2A)”.

(6) After section 215 (rights of the scheme in insolvency), insert—

“215A Continuity etc. of funeral plan contracts

(1) The compensation scheme may, in particular, include provision requiring or enabling the scheme manager to make arrangements for securing continuity of cover for—

- (a) plan holders;
- (b) plan holders of a specified class;
- (c) plan holders of funeral plan contracts of a specified class.

(2) In this section—

“plan holder” means—

- (a) a person who has a funeral plan contract with a relevant funeral plan provider, or
- (b) a person whose funeral is to be provided or secured under a funeral plan contract with a relevant funeral plan provider;

“relevant funeral plan provider” means a relevant person who—

- (a) has permission to enter into or carry out a funeral plan contract as provider, and
- (b) is unable, or likely to be unable, to satisfy claims made against them.

(6) Section 215(2) was amended by sections 169 and 175(1) and (3) of the Banking Act 2009.

(7) Section 215(2B) was inserted by [S.I. 2015/486](#).

(3) The scheme may provide for the scheme manager to take such measures as appear to it to be appropriate—

- (a) for securing or facilitating the transfer of a relevant funeral plan provider’s business so far as it consists of the carrying out of funeral plan contracts, or of any part of that business, to another authorised person;
- (b) for securing the issue by another authorised person to the plan holders concerned of funeral plan contracts in substitution for their existing contracts.

(4) The scheme may also provide for the scheme manager to make, or secure the making of, payments to a plan holder or to any other person in connection with the provision of a funeral—

- (a) during any period while the scheme manager is seeking to make arrangements mentioned in subsection (1);
- (b) if it appears to the scheme manager that it is not reasonably practicable to make such arrangements.

(5) The scheme may also provide, in relation to the administration or winding up of a relevant funeral plan provider, for the scheme manager to make payments—

- (a) in specified circumstances,
- (b) but only if the scheme manager is satisfied that such payments are made in respect of any reasonable fees, costs, charges or other expenses reasonably and exclusively incurred for the purposes of complying with a request of the scheme manager under section 215B,

to, or on behalf of, the relevant funeral plan provider or to the administrator or liquidator of the funeral plan provider.

(6) A provision of the scheme made by virtue of section 213(3)(b) may include the power to impose levies for the purpose of meeting expenses of the scheme manager incurred in—

- (a) taking measures as a result of any provision of the scheme made by virtue of subsection (3);
- (b) making, or securing the making of, payments as a result of any provision of the scheme made by virtue of subsection (4) or (5).

215B Scheme manager’s power to require assistance from liquidator etc. in relation to funeral plan contracts

(1) This section applies in relation to the administration or winding up of a relevant funeral plan provider.

(2) The administrator or liquidator of the relevant funeral plan provider must, at the request of the scheme manager, provide any assistance identified by the scheme manager as being necessary—

- (a) to enable the scheme manager to administer the compensation scheme in relation to funeral plan contracts, and
- (b) to enable the scheme manager to secure continuity of cover in relation to funeral plan contracts.

(3) “Relevant funeral plan provider” has the meaning given in section 215A.”.

(7) In section 219 (scheme manager’s power to require information)—

- (a) at the end of subsection (1A)(c)(8), omit “or”;

(8) Section 219(1A) was inserted by section 176(4) of the Banking Act 2009. There are other amendments to section 219 which are not relevant to this Order.

- (b) at the end of subsection (1A)(d), insert—
- “, or
- (e) on a person (“the Third Party”) whom the scheme manager thinks is or was at any relevant time involved in any contract of insurance or in the administration of any trust arrangement relating to a funeral plan contract entered into or carried out by a person (P)—
- (i) against whom a claim has been made under the scheme, or
- (ii) who is unable or likely to be unable to satisfy claims under the scheme against P.”;
- (c) in subsection (1B)(9), in the words before paragraph (a), for “and (d)” substitute “, (d) and (e)(ii).”.
- (8) In section 223(3)(b) (management expenses)(10), after “section”, insert “215A(3) or (4),”.

(9) Section 219(1B) was inserted by section 176(4) of the Banking Act 2009.

(10) Section 223(3) was amended by section 171(2) of the Banking Act 2009 and section 24 of, and paragraph 24 of Schedule 2 to, the Financial Services Act 2010 (c. 28).