

SCHEDULE

Section 9

CLAIMS MANAGEMENT REGULATIONS

Introduction

- 1 In this Schedule “regulations” means regulations under section 9.
- 2 Regulations made by virtue of a provision of this Schedule may confer a discretion on the Regulator.

Waiver of requirement for authorisation

- 3 (1) Regulations may permit the Regulator to waive the requirement for authorisation, as mentioned in section 4(1)(c), in specified cases or circumstances.
(2) Regulations by virtue of this sub-paragraph may permit waiver in relation to a person only—
 - (a) if the Secretary of State intends to exempt the person under section 6, and
 - (b) for a single period not exceeding six months.
- (3) The regulations may, in particular, permit or require the Regulator to provide for waiver to be subject to a condition of a kind specified in the regulations.

Grant of authorisations

- 4 (1) Regulations shall prescribe the procedure for applying to the Regulator for authorisation.
(2) Regulations may, in particular, require the provision of information or documents relating to the applicant or to any person who appears to the Regulator to be connected with the applicant.
- 5 (1) Regulations shall require the Regulator not to grant an application for authorisation unless satisfied of the applicant’s competence and suitability to provide regulated claims management services of the kind to which the application relates.
(2) For that purpose the Regulator shall apply such criteria, and have regard to such matters, as the regulations shall specify.
(3) Regulations by virtue of sub-paragraph (2) may, in particular—
 - (a) refer to a provision of directions, guidance or a code given or issued under section 5(4);
 - (b) relate to persons who are or are expected to be employed or engaged by, or otherwise connected with, the applicant;
 - (c) relate to—
 - (i) criminal records;
 - (ii) proceedings in any court or tribunal;
 - (iii) proceedings of a body exercising functions in relation to a trade or profession;
 - (iv) financial circumstances;
 - (v) management structure;
 - (vi) actual or proposed connections or arrangements with other persons;

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- (vii) qualifications;
 - (viii) actual or proposed arrangements for training;
 - (ix) arrangements for accounting;
 - (x) practice or proposed practice in relation to the provision of information about fees;
 - (xi) arrangements or proposed arrangements for holding clients' money;
 - (xii) arrangements or proposed arrangements for insurance.
- 6 Regulations may—
- (a) provide for authorisation to be on specified terms or subject to compliance with specified conditions;
 - (b) permit the Regulator to grant authorisation on terms or subject to conditions;
 - (c) permit the Regulator to grant an application for authorisation only to a specified extent or only in relation to specified matters, cases or circumstances.
- 7 Regulations may—
- (a) enable the Regulator to charge—
 - (i) fees in connection with applications for, or the grant of, authorisation;
 - (ii) periodic fees for authorised persons;
 - (b) specify the consequences of failure to pay fees;
 - (c) permit the charging of different fees for different cases or circumstances (which may, in particular, be defined wholly or partly by reference to turnover or other criteria relating to an authorised person's business);
 - (d) permit the waiver, reduction or repayment of fees in specified circumstances;
 - (e) provide for the amount of fees to be prescribed or controlled by the Secretary of State;
 - (f) make provision for the manner in which fees are to be accounted for;
 - (g) make provision for the application of income from fees (which may, in respect of a time when the Secretary of State is exercising functions of the Regulator under section 5(9) or (10), include provision permitting or requiring payment into the Consolidated Fund).

Conduct of authorised persons

- 8 (1) Regulations shall require the Regulator to prescribe rules for the professional conduct of authorised persons.
- (2) Regulations under sub-paragraph (1) shall include provision—
- (a) about the manner in which rules are to be prepared and published (which may, in particular, include provision requiring—
 - (i) consultation;
 - (ii) the submission of a draft to the Secretary of State for approval);
 - (b) about the consequences of failure to comply with the rules (which may, in particular, include—
 - (i) provision for rules to be treated as conditions of authorisations;

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- (ii) provision enabling the Regulator to impose conditions on, suspend or cancel authorisations).
- 9
 - (1) Regulations shall enable the Regulator to issue one or more codes of practice about the professional conduct of authorised persons.
 - (2) Regulations under sub-paragraph (1) shall include provision—
 - (a) about the manner in which a code is to be prepared and published (which may, in particular, include provision requiring—
 - (i) consultation;
 - (ii) the submission of a draft to the Secretary of State for approval);
 - (b) about the consequences of failure to comply with a code (which may, in particular—
 - (i) provide for compliance with a code to be treated as a condition of authorisations;
 - (ii) enable the Regulator to impose conditions on, suspend or cancel authorisations).
- 10
 - (1) Regulations shall provide for the Regulator to investigate complaints about the professional conduct of an authorised person.
 - (2) Regulations under sub-paragraph (1) shall enable the Regulator to—
 - (a) impose conditions on a person’s authorisation;
 - (b) suspend a person’s authorisation;
 - (c) cancel a person’s authorisation.
- 11
 - (1) Regulations may require, or permit the Regulator to require, an authorised person to take out a policy of professional indemnity insurance in respect of his actions in the course of providing or purporting to provide regulated claims management services.
 - (2) Regulations under sub-paragraph (1) may, in particular—
 - (a) make provision about the level or nature of insurance cover to be provided by the policy;
 - (b) include provision about failure to comply (which may, in particular, provide for compliance to be treated as a condition of authorisations or enable the Regulator to impose conditions on, suspend or cancel authorisations).
- 12
 - (1) Regulations may require the Regulator to establish a scheme to compensate a client of an authorised person where—
 - (a) money is paid to the authorised person in complete or partial satisfaction of the client’s claim, and
 - (b) the client is unable to obtain all or part of the money because the authorised person becomes insolvent or is otherwise unable or unwilling to pay.
 - (2) In particular, regulations may make provision—
 - (a) about the purchase of bonds or other forms of insurance or indemnity;
 - (b) about the funding of the scheme (which may include the application of part of fees charged in accordance with paragraph 7 and may not include payments, or other financial assistance, by a Minister of the Crown);
 - (c) about procedure in connection with compensation (including criteria to be applied);
 - (d) about the amount of compensation.

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Enforcement

- 13 Regulations may permit or require the Regulator to take action of a specified kind for the purpose of assessing compliance with terms or conditions of authorisations.
- 14 (1) Regulations may enable the Regulator, for the purpose of investigating a complaint about the activities of an authorised person or for the purpose of assessing compliance with terms and conditions of an authorisation, to require the provision of information or documents.
- (2) The Regulations may provide that on an application by the Regulator a judge of the High Court, Circuit judge or justice of the peace may issue a warrant authorising the Regulator to enter and search premises on which a person conducts or is alleged to conduct regulated claims management business, for the purpose of—
- (a) investigating a complaint about the activities of an authorised person, or
 - (b) assessing compliance with terms and conditions of an authorisation.
- (3) Regulations may enable the Regulator to take copies of written or electronic records found on a search by virtue of sub-paragraph (2) for a purpose specified in that subsection.
- (4) Regulations may enable the Regulator to impose conditions on, suspend or cancel a person's authorisation if—
- (a) a requirement imposed by virtue of sub-paragraph (1) is not complied with, or
 - (b) an attempt to exercise a power by virtue of sub-paragraph (2) or (3) is obstructed.
- (5) In this paragraph a reference to the Regulator includes a reference to a person authorised by him in writing.
- (6) Regulations shall—
- (a) specify matters of which a judge or justice of the peace must be satisfied, or to which he must have regard, before issuing a warrant under sub-paragraph (2),
 - (b) regulate the exercise of a power under or by virtue of sub-paragraph (1), (2) or (3) (whether by restricting the circumstances in which a power may be exercised, by specifying conditions to be complied with in the exercise of a power, or otherwise).
- 15 Regulations may make provision about the exercise by the Regulator of a power under section 8.