

2018 No. 1029 (C. 79)

FINANCIAL SERVICES

CONSUMER PROTECTION

**The Financial Guidance and Claims Act 2018 (Commencement
No. 3 and Transitory Provisions (Modification)) Regulations
2018**

Made - - - - *25th September 2018*

The Secretary of State for Work and Pensions, in exercise of the powers conferred by section 37(5) to (8) and (9)(a)(i) of the Financial Guidance and Claims Act 2018^(a), makes the following Regulations.

Citation

1. These Regulations may be cited as the Financial Guidance and Claims Act 2018 (Commencement No. 3 and Transitory Provisions (Modification)) Regulations 2018.

Provisions coming into force on 1st October 2018

2. The day appointed for the coming into force of the following provisions of the Financial Guidance and Claims Act 2018 is 1st October 2018—

- (a) section 1(1) to (5) and (7) (the single financial guidance body);
- (b) section 2 (objectives);
- (c) section 3(2) and (3) (functions);
- (d) section 6 (debt respite scheme: advice to the Secretary of State);
- (e) section 7 (debt respite scheme: regulations);
- (f) section 8 (guidance and directions from the Secretary of State);
- (g) section 9 (setting standards);
- (h) section 11(2) (financial assistance from the Secretary of State);
- (i) section 15 (false claims about provision of information etc);
- (j) section 16 (offences under section 15 committed by bodies corporate etc);
- (k) section 17(1) to (3), (6)(a), (7) and (8) (disclosure of information);
- (l) section 23 (power to dissolve the single financial guidance body);
- (m) section 24 (regulations dissolving the new single financial guidance body: procedure);
- (n) section 26 (interpretation of Part 1);

- (o) Schedule 1 (the single financial guidance body);
- (p) Schedule 2 (transfer schemes under section 1); and
- (q) the following provisions in Schedule 3 (minor and consequential amendments relating to Part 1) and section 25 (minor and consequential amendments) so far as it relates to them—
 - (i) paragraph 1;
 - (ii) paragraph 2;
 - (iii) paragraph 3;
 - (iv) paragraph 4;
 - (v) paragraph 6;
 - (vi) paragraph 11;
 - (vii) paragraph 13(c);
 - (viii) paragraph 14(2)(c) and (3)(c);
 - (ix) paragraph 21(2)(b), (3)(b), (5)(a)(ii) and (5)(b)(iv);
 - (x) paragraph 23;
 - (xi) paragraph 24;
 - (xii) paragraph 28; and
 - (xiii) paragraph 30(a) and (c).

Provisions coming into force on 1st October 2018 for specified purposes

3. The day appointed for the coming into force of section 3(1), (4) to (7) and (9) of the Financial Guidance and Claims Act 2018 is 1st October 2018 for the following purposes—

- (a) Section 3(1), (4) to (7) and (9) comes into force for the purposes of sections 3(2)(a) and (3), 8(1) and 17(1) to (3); and
- (b) Section 3(1)(a) to (c) and (4) to (6) comes into force also for the purposes of section 9(1).

Transitory modifications

4. The transitory modifications contained in the Schedule have effect.

Signed by authority of the Secretary of State for Work and Pensions.

25th September 2018

Guy Opperman
Parliamentary Under Secretary of State
Department for Work and Pensions

SCHEDULE

Transitory modifications

1. Until section 1(6) comes into force, paragraph 11 of Schedule 3 has effect as if the words “and the consumer financial education body (see section 3S(2))” were included after the words in brackets.

2. Until section 10 comes into force, paragraphs 21(2)(b) and (3)(b) and 30(c) of Schedule 3 have effect as if the words “section 9(2)” were substituted for “sections 9(2) and 10”.

EXPLANATORY NOTE

(This note is not part of the Regulations).

These Regulations bring into force the specified provisions in Part 1 of the Financial Guidance and Claims Act 2018 (c. 10) on 1st October 2018 in order to establish a single financial guidance body and make associated and consequential provision.

Section 1(1) and (3) to (5) establishes the single financial guidance body and provides that the name of the body is to be determined by regulations made by the Secretary of State (subject to annulment in pursuance of a resolution by either House of Parliament). Section 1(2) and (7) gives effect to Schedule 1 (which makes further provision about the single financial guidance body) and Schedule 2 (which makes provision about schemes for the transfer of staff, property, rights and liabilities from the Secretary of State and the Pensions Advisory Service Limited to the single financial guidance body and from the consumer financial education body (known as the Money Advice Service) to the single financial guidance body and the devolved authorities).

Section 2 sets out the objectives of the single financial guidance body and provides that the body must have regard to these objectives when it exercises its functions.

Section 3(2) provides the single financial guidance body with the function of providing advice and assistance to the Secretary of State on matters relating to its pensions guidance, debt advice, money guidance, consumer protection and strategic functions and advice to the Secretary of State on the establishment of a debt respite scheme (also known as a breathing space scheme). Section 3(3) provides that the single financial guidance body may do anything which is incidental or conducive to the exercise of its functions.

Regulation 3(a) provides that section 3(1), (4) to (7) and (9) comes into force but only for specified purposes. This includes for the purposes of section 3(2)(a) and this enables the single financial guidance body to provide advice and assistance to the Secretary of State on matters relating to its pensions guidance, debt advice, money guidance, consumer protection and strategic functions before these functions are fully commenced. Section 3(1), (4) to (7) and (9) also comes into force for the purposes of section 3(3) which enables the single financial guidance body to do anything that is incidental or conducive to the exercise of these functions before they are fully commenced.

Section 6 requires the Secretary of State to seek advice from the single financial guidance body on the establishment of a debt respite scheme within three months of its establishment. The single financial guidance body must then provide this advice within 12 months of its establishment. Section 7 provides that the Secretary of State may make regulations establishing a debt respite scheme after receiving the advice from the single financial guidance body under section 6.

Section 8 provides that the Secretary of State may issue guidance and directions to the single financial guidance body about the exercise of its functions. Regulation 3(a) provides that section 3(1), (4) to (7) and (9) comes into force for the purposes of section 8(1). This enables the Secretary of State to issue the single financial guidance body with guidance and directions about the exercise of its pensions guidance, debt advice, money guidance, consumer protection and strategic functions before they are fully commenced.

Section 9 provides that the single financial guidance body must set standards to be complied with by persons providing information or guidance in pursuance of the body's pensions guidance and

money guidance functions or information or advice in pursuance of the body's debt advice function. The standards must be approved by the Financial Conduct Authority. Regulation 3(b) provides that section 3(1)(a) to (c) and (4) to (6) comes into force for the purposes of section 9(1). This enables the single financial guidance body to set standards before its pensions guidance, debt advice and money guidance functions are fully commenced.

Section 11(1) and (3) came into force on the day the Financial Guidance and Claims Act 2018 was passed (see section 37(1)(a)). These Regulations bring into force the remaining provision in section 11, which is subsection (2). This provides that the Secretary of State may give financial assistance to the single financial guidance body for the purpose of enabling it to carry out its functions.

Section 15 provides that it is an offence for a person to hold themselves out as providing information, guidance or advice on behalf of the single financial guidance body when that is not in fact the case. Section 16 makes further provision in relation to offences under section 15 committed by bodies corporate, partnerships and other unincorporated associations.

Section 17(1) to (3) provides that the single financial guidance body may disclose information to the Secretary of State, the devolved authorities and the Financial Conduct Authority (and the Secretary of State, the devolved authorities and the Financial Conduct Authority may disclose information to the single financial guidance body) for specified purposes. Regulation 3(a) provides that section 3(1), (4) to (7) and (9) comes into force for the purposes of section 17(1) to (3). This enables the single financial guidance body to disclose information to the Secretary of State, the devolved authorities and the Financial Conduct Authority (and the Secretary of State, the devolved authorities and the Financial Conduct Authority may disclose information to the single financial guidance body) for specified purposes, relating to the body's pensions guidance, debt advice, money guidance, consumer protection and strategic functions, before these functions are fully commenced.

Section 17(6)(a) requires the single financial guidance body to disclose information to the Secretary of State when requested to do so. Section 17(7) and (8) provides that a disclosure authorised or required by this section does not breach an obligation of confidence or other restriction, but nothing in this section authorises a disclosure which contravenes data protection legislation (as defined in section 26(1)) or the specified provisions in the Investigatory Powers Act 2016 (c. 25).

Section 23 provides that the Secretary of State may make regulations to dissolve the single financial guidance body. Section 24 provides that the regulations must be approved by a resolution of each House of Parliament.

Section 26 gives the meaning of specified terms used in the Financial Guidance and Claims Act 2018 (c. 10). This includes that references in Part 1 to the Secretary of State are to be read as references to the Secretary of State or the Treasury, other than in section 1(7)(a) and paragraph 11(1) of Schedule 2.

The relevant paragraphs in Schedule 3 make minor and consequential amendments relating to the coming into force of the relevant provisions in Part 1.

Paragraph 11 of Schedule 3 comes into force subject to a transitory modification to enable the Financial Conduct Authority and the Prudential Regulation Authority to continue to provide services to the consumer financial education body until section 1(6) comes into force, which will dissolve the consumer financial education body.

Paragraph 21(2)(b) and (3)(b) of Schedule 3 requires the Financial Conduct Authority to act through its governing body when exercising its functions relating to approving and reviewing the standards set by the single financial guidance body and to set out how it considers it has complied with these functions in its annual report to the Treasury. Paragraph 30(c) of Schedule 3 provides that the scope of the Financial Conduct Authority's complaint scheme (see Part 6 of the Financial Services Act 2012 (c. 21)) does not extend to the Authority's performance of (or failure to perform) these functions. These provisions come into force subject to transitory modifications and have effect as if the reference to section 10 (which gives the Financial Conduct Authority its function of reviewing the standards set by the single financial guidance body) was omitted until this section comes into force.

These are the third commencement regulations made under the Financial Guidance and Claims Act 2018 (c. 10).

A full impact assessment has not been produced for these Regulations as they have no impact on the costs of business or the voluntary sector. A full impact assessment has been produced in relation to the provisions of the Financial Guidance and Claims Act 2018 (c. 10), including the provisions that are commenced by these Regulations, and a copy is available at <http://www.legislation.gov.uk/ukpga/2018/10/resources>. A hard copy of this impact assessment can be obtained from Private Pensions, Projects and Guidance, Department for Work and Pensions, Floor 1, Caxton House, 6 – 12 Tothill Street, London, SW1H 9NA.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Regulations)

The following provisions of the Financial Guidance and Claims Act 2018 (c. 10) have been brought into force by commencement regulations made before the date of these Regulations:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 14	1st October 2018 ^(a)	2018/1003
Section 20	1st January 2019 ^(b)	2018/1003
Section 35	8th September 2018	2018/987

© Crown copyright 2018

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Jeff James, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

^(a) This date has not been reached by the date these Regulations are made.

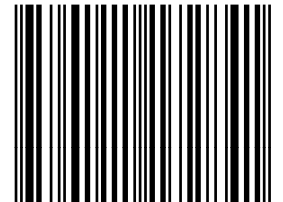
^(b) This date has not been reached by the date these Regulations are made.

£4.90

UK201809251008 10/2018 19585

<http://www.legislation.gov.uk/id/uksi/2018/1029>

ISBN 978-0-11-117284-1



9 780111 172841