
STATUTORY INSTRUMENTS

2018 No. 1253

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

PART 3

Transitional provisions

CHAPTER 2

Authorisation and regulation of 2006 Act authorised persons

Meaning of “relevant person”

40.—(1) In this Chapter “relevant person” means a person who—

- (a) immediately before 1st April 2019, was a 2006 Act authorised person; and
- (b) on 1st April 2019, is treated, by virtue of article 80(5), as having a Part 4A permission to carry on a regulated claims management activity.

(2) Where the conditions set out in paragraph (3) are met, the reference in paragraph (1)(a) to a 2006 Act authorised person includes a person (“P”) who received from the Regulator written notice given under regulation 47 of the 2006 Regulations of a decision to cancel P’s authorisation (“the cancellation decision”).

(3) The conditions are that the cancellation decision had effect before 1st April 2019, and—

- (a) where, before 1st April 2019, P submitted notice of an appeal to the First-tier Tribunal under section 13 of the 2006 Act with respect to the cancellation decision, the appeal—
 - (i) has not been determined; or
 - (ii) has been determined by a remittal of the cancellation decision to the Regulator under section 13(3)(e) of the 2006 Act but a further decision by the Regulator in relation to the cancellation decision has not been taken; or
- (b) where, before 1st April 2019, P did not submit such notice of appeal, the period within which an appeal may be made has not ended on that date.

Applications for authorisation made to the Regulator: authorisation by the FCA

41.—(1) This article applies to an application under regulation 8 of the 2006 Regulations (application for authorisations) received by the Regulator before 1st April 2019, where on 1st April 2019—

- (a) the applicant (“A”) has not withdrawn the application; and
- (b) the Regulator has not given A a written instrument of authorisation in accordance with regulation 13(1) of the 2006 Regulations.

(2) Paragraphs (3) to (8) apply where the Regulator has not approved the grant of an authorisation to A.

(3) Where—

- (a) the conditions set out in paragraph (5) are met; and
- (b) immediately before 1st April 2019, A is a 2000 Act authorised person,

A's application to the Regulator is to be treated as an application to the FCA under section 55H(1) of the 2000 Act (variation by FCA at request of authorised person) to vary A's Part 4A permission by adding regulated claims management activity to the activities to which the permission relates.

(4) Where—

- (a) the conditions set out in paragraph (5) are met; and
- (b) immediately before 1st April 2019, A is not a 2000 Act authorised person,

A's application to the Regulator is to be treated as an application to the FCA under section 55A(2) (application for permission) of the 2000 Act for permission to carry on regulated claims management activity.

(5) The conditions are that A—

- (a) submits to the FCA such further application form as may be specified in a direction given by the FCA; and
- (b) pays to the FCA any further fee payable under its rules by any person making an application of a kind specified in paragraphs (3) or (4).

(6) If, before 1st April 2019, the Regulator notified A that the Regulator was minded to grant or refuse A's application, that fact is immaterial for the purposes of the determination of the application by the FCA.

(7) Section 55U(1) to (4)(3) of the 2000 Act (applications under Part 4A) does not apply to A's application.

(8) For the purposes of section 55V(4) of the 2000 Act (determination of applications) A's application is to be treated as if it had been received by the FCA on the date on which A met the conditions set out in paragraph (5).

(9) Paragraph (10) applies where—

- (a) the Regulator has on A's application approved the grant of an authorisation to A; and
- (b) A has not paid to the Regulator the fee referred to in regulation 13(1) of the 2006 Regulations.

(10) That fee is payable to the FCA, and on payment of that fee A is to be treated for the purposes of article 80 as if—

- (a) immediately before 1st April 2019, A was a 2006 Act authorised person; and
- (b) during the period referred to in paragraph (1)(b) of that article, A had notified the FCA of A's desire to be registered for temporary permission under that article and paid the fee payable by any person desiring to be so registered.

Applications for authorisation made to the Regulator: appeal of decision

42.—(1) This article applies where—

- (a) the Regulator gave notice to a person (“A”) under regulation 13(5) of the 2006 Regulations of the Regulator's decision—
 - (i) to refuse to grant an authorisation to A; or

(1) Section 55H was inserted by the Financial Services Act 2012 (c. 21), section 11(2).

(2) Section 55A was inserted by the Financial Services Act 2012, section 11(2).

(3) Section 55U was inserted by the Financial Services Act 2012, section 11(2).

(4) Section 55V was inserted by the Financial Services Act 2012, section 11(2).

- (ii) to grant an authorisation to A subject to a condition not sought by A; and
 - (b) on 1st April 2019, the period within which an appeal relating to that decision may be made has not ended.
- (2) The Regulator’s notice is to be treated as a decision notice given under section 55X(4)(f) of the 2000 Act(5), and the notice is to be read for that purpose—
- (a) as if any reference to the Regulator were a reference to the FCA; and
 - (b) with any other necessary modifications.
- (3) If, before 1st April 2019, A submitted notice of an appeal to the First-tier Tribunal under section 13 of the 2006 Act in respect of the Regulator’s decision, section 55Z3(1) of the 2000 Act(6) (right to refer matters to the Tribunal) does not apply.

Proposal by the Regulator to vary authorisation: determination by the FCA

- 43.**—(1) This article applies where the Regulator—
- (a) gave written notice to a relevant person (“A”) under regulation 46(4) of the 2006 Regulations (cancellation, suspension and variation of authorisations) that the Regulator proposed to vary A’s authorisation; and
 - (b) did not, on or before 1st April 2019, give written notice under regulation 47(1) of the 2006 Regulations (procedure for cancellation etc) of a decision to vary A’s authorisation.
- (2) The Regulator’s notice is to be treated as written notice given by the FCA under section 55Y(4) of the 2000 Act(7), and for this purpose—
- (a) subsection (2) of that section does not apply to the notice;
 - (b) the notice is taken to comply with subsection (5) of that section;
 - (c) the notice is to be read—
 - (i) as if the period specified in it for making a written submission (including any further period allowed under regulation 46(5) of the 2006 Regulations) were the period for making representations specified in accordance with section 55Y(5)(c) of the 2000 Act;
 - (ii) as if a reference to the Regulator were a reference to the FCA; and
 - (iii) with any other necessary modifications.

Variation of authorisation by the Regulator: appeal of decision

- 44.**—(1) This article applies where—
- (a) the Regulator gave written notice to a relevant person (“B”) under regulation 47(1) of the 2006 Regulations of a decision to vary B’s authorisation; and
 - (b) on 1st April 2019—
 - (i) the period within which an appeal relating to that decision may be made has not ended; or
 - (ii) an appeal submitted to the First-tier Tribunal by B before that date has not been determined.

(5) Section 55X was inserted (together with the rest of Part 4A of the 2000 Act) by the Financial Services Act 2012 (c. 21), section 11(2).

(6) Section 55Z3 was inserted by the Financial Services Act 2012, section 11(2) and amended by SI 2018/135.

(7) Section 55Y was inserted by the Financial Services Act 2012, section 11(2).

(2) The Regulator’s notice is to be treated as written notice given by the FCA under section 55Y(7) of the 2000 Act, and for this purpose—

- (a) it is immaterial that the notice does not comply with subsection (9) of that section; and
- (b) the notice is to be read—
 - (i) as if a reference to the Regulator were a reference to the FCA; and
 - (ii) with any other necessary modifications.

(3) If, before 1st April 2019, B submitted notice of an appeal to the First-tier Tribunal under section 13 of the 2006 Act in respect of the Regulator’s decision, section 55Z3(1) of the 2000 Act does not apply.

Proposal by the Regulator to cancel authorisation: determination by the FCA

45.—(1) This article applies where the Regulator—

- (a) gave written notice to a relevant person (“A”) under regulation 46(4) of the 2006 Regulations that the Regulator proposed to cancel A’s authorisation; and
- (b) did not, on or before 1st April 2019, give written notice under regulation 47(1) of the 2006 Regulations of a decision to cancel A’s authorisation.

(2) Where, immediately before 1st April 2019, A is not a 2000 Act authorised person, the Regulator’s notice is to be treated as a warning notice given under section 55Z(1)(8) of the 2000 Act, and for this purpose—

- (a) the notice is taken to comply with section 387(1) (warning notices) of the 2000 Act;
- (b) the notice is to be read—
 - (i) as if a reference to the Regulator were a reference to the FCA;
 - (ii) as if the period specified in it for making a written submission (including any further period allowed under regulation 46(5) of the 2006 Regulations) were the period for making representations specified in accordance with section 387(2) of the 2000 Act; and
 - (iii) with any other necessary modifications.

(3) Where, immediately before 1st April 2019, A is a 2000 Act authorised person, the Regulator’s notice is to be treated as written notice given by the FCA under section 55Y(4) of the 2000 Act, and for this purpose—

- (a) subsection (2) of that section does not apply to the notice;
- (b) the notice is taken to comply with subsection (5) of that section; and
- (c) the notice is to be read—
 - (i) as if a reference to the Regulator were a reference to the FCA;
 - (ii) as if the period specified in it for making a written submission (including any further period allowed under regulation 46(5) of the 2006 Regulations) were the period for making representations specified in accordance with section 55Y(5)(c) of the 2000 Act; and
 - (iii) with any other necessary modifications.

Cancellation of authorisation by the Regulator: appeal of decision

46.—(1) This article applies where—

(8) Section 55Z was inserted by the Financial Services Act 2012, section 11(2).

- (a) the Regulator gave written notice to a relevant person (“B”) under regulation 47(1) of the 2006 Regulations of a decision to cancel B’s authorisation; and
 - (b) on 1st April 2019—
 - (i) the period within which an appeal relating to that decision may be made has not ended; or
 - (ii) an appeal submitted to the First-tier Tribunal by B before that date has not been determined.
- (2) For the purposes only of an appeal in respect of the Regulator’s decision, the Regulator’s notice is to be treated—
- (a) where, immediately before 1st April 2019, B is not a 2000 Act authorised person, as a decision notice given under section 55Z(2) of the 2000 Act;
 - (b) where, immediately before 1st April 2019, B is a 2000 Act authorised person, as written notice given by the FCA under section 55Y(7) of that Act.
- (3) For the purposes of paragraph (2)—
- (a) where the notice is treated as written notice under section 55Y(7) of the 2000 Act, it is immaterial that it does not comply with subsection (9) of that section; and
 - (b) the notice is to be read—
 - (i) as if any reference to the Regulator were a reference to the FCA; and
 - (ii) with any other necessary modifications.
- (4) If, before 1st April 2019, B submitted notice of an appeal to the First-tier Tribunal under section 13 of the 2006 Act in respect of the Regulator’s decision, section 55Z3(1) of the 2000 Act does not apply.

Proposal by the Regulator to suspend authorisation: determination by the FCA

- 47.—**(1) This article applies where the Regulator—
- (a) gave written notice to a relevant person (“A”) under regulation 46(4) of the 2006 Regulations that the Regulator proposed to suspend A’s authorisation; and
 - (b) on 1st April 2019, has not given written notice under regulation 47(1) of the 2006 Regulations of a decision to suspend A’s authorisation.
- (2) The Regulator’s notice is to be treated as a warning notice given by the FCA under section 207(1)(c) of the 2000 Act⁽⁹⁾, and for this purpose—
- (a) the notice is taken to comply with section 387(1) of the 2000 Act; and
 - (b) the notice is to be read—
 - (i) as if any reference to the Regulator were a reference to the FCA;
 - (ii) as if the period specified for making a written submission (including any further period allowed under regulation 46(5) of the 2006 Regulations) were the period for making representations specified in accordance with section 387(2) of the 2000 Act;
 - (iii) as if the period of the proposed suspension specified among the terms set out under regulation 46(4)(b) of the 2006 Regulations were the period for which the suspension is to have effect stated in accordance with section 207(4) of the 2000 Act⁽¹⁰⁾; and
 - (iv) with any other necessary modifications.

⁽⁹⁾ Paragraph (c) of section 207(1) was inserted by the Financial Services Act 2010 (c. 28), sections 24(1) and (2), paragraphs 1 and 18(1) and (3) of Schedule 2.

⁽¹⁰⁾ Subsection (4) of section 207 was inserted by the Financial Services Act 2010, sections 24(1) and (2), paragraphs 1 and 18(1) and (3) of Schedule 2.

Suspension of authorisation by the Regulator: appeal of decision

48.—(1) This article applies where—

- (a) the Regulator gave written notice to a relevant person (“B”) under regulation 47(1) of the 2006 Regulations of a decision to suspend B’s authorisation; and
- (b) on 1st April 2019—
 - (i) the period within which an appeal relating to that decision may be made has not ended; or
 - (ii) an appeal submitted to the First-tier Tribunal by B before that date has not been determined.

(2) For the purposes only of an appeal in respect of the Regulator’s decision, the Regulator’s notice is to be treated as a decision notice given by the FCA under section 208(1)(c) of the 2000 Act(**11**), and the notice is to be read for this purpose—

- (a) as if any reference to the Regulator were a reference to the FCA; and
- (b) with any other necessary modifications.

(3) For the purposes of section 206A(3) of the 2000 Act, the suspension is treated as having taken effect on 1st April 2019.

(4) If, before 1st April 2019, B submitted notice of an appeal to the First-tier Tribunal under section 13 of the 2006 Act in respect of the Regulator’s decision, section 208(4) of the 2000 Act(**12**) (right to refer matters to the Tribunal) does not apply.

Notice by the Regulator of proposed direction

49.—(1) This article applies where the Regulator—

- (a) notified a relevant person under regulation 29(4) of the 2006 Regulations(**13**) (directions of the Regulator about complaints handling and related matters) of a direction that the Regulator proposed to give under paragraph (3) of that regulation; and
- (b) on 1st April 2019, has not given the proposed direction.

(2) The Regulator’s notice is to be treated as written notice given by the FCA under section 55Y(4) of the 2000 Act, and for this purpose—

- (a) subsection (2) of that section does not apply to the notice;
- (b) the notice is taken to comply with subsection (5) of that section; and
- (c) the notice is to be read—
 - (i) as if a reference to the Regulator were a reference to the FCA; and
 - (ii) with any other necessary modifications.

Compliance with information requirement imposed by the Regulator

50.—(1) This article applies where—

- (a) the Regulator—
 - (i) gave notice in writing to a person under—

(11) Paragraph (c) of section 208(1) was inserted by the Financial Services Act 2010, sections 24(1) and (2), paragraphs 1 and 18(1) and (3) of Schedule 2.

(12) Subsection (4) was amended by the Financial Services Act 2012 (c. 21), section 37(1), paragraphs 1 and 15 of Schedule 9; and the Financial Services Act 2010, section 24(1) and (2), paragraphs 1 and 19 of Schedule 2.

(13) Regulation 29(4) was amended by S.I. 2015/42.

- (aa) regulation 33 of the 2006 Regulations (requirements for information under section 8(4) of the 2006 Act); or
 - (bb) regulation 36 of the 2006 Regulations (breaches by authorised persons of condition: requirement to provide information etc); or
 - (ii) made a request to a person under rule 16 of the Conduct of Authorised Persons Rules 2018⁽¹⁴⁾; and
 - (b) on 1st April 2019, the period specified in the notice or request within which the information or documents specified or described in the notice or request are to be given to the Regulator, including any extra time allowed under regulation 33(6) or 36(6) of the 2006 Regulations, has not expired.
- (2) The Regulator’s notice or request is to be treated as a notice in writing given by the FCA under section 165(1) of the 2000 Act⁽¹⁵⁾ (regulators’ power to require information: authorised persons etc).
- (3) For the purposes of this article, section 165 of the 2000 Act has effect in relation to the Regulator’s notice or request as if—
- (a) in subsection (2)(a), the reference to such reasonable period as may be specified is to be read as a reference to the period referred to in paragraph (1)(b) or such longer period as the FCA may allow; and
 - (b) in subsection (2)(b), the reference to such place as may be specified is to be read as a reference to the place specified in the Regulator’s notice or request at which the information or documents specified or described in the notice or request are to be given to the Regulator.

Penalties for conduct for which the Regulator has not given notice of proposed penalty

51.—(1) This article applies where—

- (a) the FCA is satisfied that, after 28th December 2014 but before 1st April 2019, a relevant person (“A”)—
 - (i) failed to comply with any of the conditions of authorisation referred to in regulation 12(5)(a), (b), (d) or (i)⁽¹⁶⁾ of the 2006 Regulations;
 - (ii) failed to comply with a notice in writing given by the Regulator under regulation 36 of the 2006 Regulations; or
 - (iii) in relation to a warrant issued under regulation 40 of the 2006 Regulations (issue of warrants generally)⁽¹⁷⁾, obstructed an attempt to—
 - (aa) enter and search premises in accordance with the warrant;
 - (bb) take possession of written or electronic records in accordance with an authorisation under paragraph (4) of that regulation; or
 - (cc) take copies of written or electronic records in accordance with regulation 43⁽¹⁸⁾ of the 2006 Regulations (copying of documents); and

⁽¹⁴⁾ The Conduct of Authorised Persons Rules 2018 (<https://www.gov.uk/government/publications/claims-management-regulation-conduct-of-authorised-person-rules-2018>) are made by the Regulator under regulation 22 of the 2006 Regulations (Rules and Codes of Practice).

⁽¹⁵⁾ Section 165(1) was amended by the Financial Services Act 2012 (c. 21), Schedule 12, paragraph 1(2).

⁽¹⁶⁾ Regulation 12(5) was amended by S.I. 2015/42.

⁽¹⁷⁾ Regulation 40 was amended by S.I. 2008/1441.

⁽¹⁸⁾ Regulation 42 was amended by S.I. 2008/1441.

- (b) on 1st April 2019, the Regulator has not given written notice to A under regulation 51(19) of the 2006 Regulations (notice of proposed penalty and written submissions) that the Regulator proposed to impose a penalty on A for the failure or the obstruction concerned (“the relevant default”).

(2) For the purposes of the following sections of the 2000 Act, the relevant default is to be treated as a contravention of a relevant requirement (within the meaning given by section 204A(2) of that Act)—

- (a) section 206 (financial penalties);
- (b) section 206A (suspending permission to carry on regulated activities etc);
- (c) section 208 (decision notice).

(3) For the purposes of paragraph (2), sections 206 and 208 of the 2000 Act are to be read as if a reference to an authorised person included a person who was, at any time before 1st April 2019, a 2006 Act authorised person.

(4) In determining what, if any, financial penalty to impose on A, the FCA must have regard to—

- (a) any penalty or fine that has been imposed on A for the relevant default by another body;
- (b) any other steps that the Regulator or the FCA has taken, or that the FCA might take, in relation to the relevant default;
- (c) the nature and seriousness of the relevant default; and
- (d) the relevant turnover (within the meaning given by regulation 50(20)) of A’s business.

(5) A financial penalty imposed by the FCA for the relevant default—

- (a) where the relevant turnover of A’s business is less than £500,000, may not exceed £100,000;
- (b) where the relevant turnover of A’s business is £500,000 or more, may not exceed an amount equal to 20 per cent of that turnover.

Penalties for conduct for which the Regulator has given notice of proposed penalty

52.—(1) In this article—

- (a) a reference to a numbered section is a reference to the section so numbered in the 2000 Act; and
- (b) a reference to a numbered regulation is a reference to the regulation so numbered in the 2006 Regulations.

(2) This article applies where the Regulator—

- (a) gave written notice to a person (“A”) under regulation 51(1) that the Regulator proposed to impose a penalty on A for a failure or obstruction of a kind specified in article 51(1) (“the relevant default”);
- (b) none of the evidence on which the Regulator relies, as set out in the summary of evidence set out in the notice in accordance with regulation 51(1)(e), relates to conduct that occurred on or before 28th December 2014; and
- (c) on 1st April 2019, the Regulator has not given written notice to A under regulation 52(21) (procedure for requiring an authorised person to pay a penalty) of a decision to require A to pay a penalty.

(19) Regulation 51 was amended by [S.I. 2008/1441](#).

(20) Regulation 50 was amended by [S.I. 2014/3239](#).

(21) Regulation 52 was amended by [S.I. 2014/3239](#).

(3) The Regulator's notice is to be treated as a warning notice given by the FCA under section 207(1)(b) (proposal to take disciplinary measures)(22), and for this purpose—

- (a) the notice is taken to comply with section 387(1); and
- (b) the notice is to be read—
 - (i) as if a reference to the Regulator is a reference to the FCA;
 - (ii) as if the period specified in it for making a written submission (including any further period allowed under regulation 51(2)) is the period for making representations specified in accordance with section 387(2); and
 - (iii) with any other necessary modifications.

(4) For the purposes of the following sections of the 2000 Act, the relevant default is to be treated as a contravention of a relevant requirement (within the meaning given by section 204A(2))—

- (a) section 206 (financial penalties);
- (b) section 206A (suspending permission to carry on regulated activities etc);
- (c) section 207 (proposal to take disciplinary measures);
- (d) section 208 (decision notice).

(5) For the purposes of paragraph (4), sections 206, 207 (except subsection (1)(c)), and 208 are to be read as if a reference to an authorised person included a person who was, at any time before 1st April 2019, a 2006 Act authorised person.

(6) In determining what, if any, financial penalty to impose on A, the FCA must have regard to—

- (a) the considerations specified in article 51(4); and
- (b) any written submissions made by A in relation to the matters in the Regulator's notice within the period allowed under regulation 51(1)(g)(23) or any further period allowed by the Regulator.

(7) A financial penalty imposed by the FCA for the relevant default—

- (a) where the relevant turnover of A's business is less than £500,000, may not exceed £100,000;
- (b) where the relevant turnover of A's business is £500,000 or more, may not exceed an amount equal to 20 per cent of that turnover.

Penalties for conduct for which the Regulator has given penalty decision: appeal of decision

53.—(1) This article applies where—

- (a) the Regulator gave written notice to a person ("A") under regulation 52 of the 2006 Regulations of a decision to require A to pay a penalty; and
- (b) on 1st April 2019—
 - (i) the period within which an appeal relating to that decision may be made has not ended; or
 - (ii) an appeal submitted to the First-tier Tribunal by A before that date has not been determined.

(2) The Regulator's notice is to be treated as a decision notice given by the FCA under section 208(1)(b) of the 2000 Act, and is to be read for this purpose—

- (a) as if any reference to the Regulator were a reference to the FCA; and

(22) Section 207(1) was amended by the Financial Services Act 2012 (c. 21), section 37(1), paragraphs 1 and 14 of Schedule 9.

(23) Regulation 51 was amended by S.I. 2013/3239.

(b) with any other necessary modifications.

(3) If, before 1st April 2019, A submitted notice of an appeal to the First-tier Tribunal under section 13 of the 2006 Act, section 208(4) of the 2000 Act⁽²⁴⁾ does not apply.

Penalties for conduct for which the Regulator has given penalty decision: penalty due

54.—(1) This article applies where, before 1st April 2019—

(a) the Regulator gave written notice to a person (“A”) under regulation 52 of the 2006 Regulations of a decision to require A to pay a penalty; and

(b) on 1st April 2019—

(i) the period within which an appeal relating to that decision may be made has ended, or an appeal has been withdrawn or determined otherwise than in A’s favour; and

(ii) the penalty specified in the Regulator’s notice, or any part of it, is unpaid.

(2) The penalty or unpaid part of the penalty is payable to the FCA rather than to the Regulator.

(3) Where the penalty, or any part of it, is not paid by the date specified in the Regulator’s notice as the date by which it is required to be paid, the FCA may enforce the penalty or that part of it as a debt due to the FCA.

(4) For the purposes of Part 3 of Schedule 1ZA to the 2000 Act (penalties and fees)—

(a) any amounts received by the FCA by virtue of paragraph (2) are to be treated as amounts received by way of penalties imposed under the 2000 Act;

(b) any expenses incurred by the FCA in connection with the recovery of penalties payable to it by virtue of this article are to be treated as expenses incurred in connection with the recovery of penalties imposed under the 2000 Act.

Investigation and prosecution after 1st April 2019 in relation to conduct before that date

55.—(1) This article applies for the purposes of—

(a) an investigation on or after 1st April 2019 (“a relevant investigation”)—

(i) to determine whether an offence was committed by a person before that date under Part 2 of the 2006 Act;

(ii) of a complaint about the activities or professional conduct of a relevant person before that date;

(iii) into the professional conduct of a relevant person before that date otherwise than as a result of a complaint, where the FCA is satisfied that the Regulator could reasonably have made a decision to carry out such an investigation under regulation 35(2) of the 2006 Regulations; and

(b) the prosecution on or after 1st April 2019 of an offence committed before that date under Part 2 of the 2006 Act (“a relevant offence”).

(2) The FCA may—

(a) conduct any relevant investigation; or

(b) institute and prosecute criminal proceedings in respect of any relevant offence.

(3) Paragraphs (4) to (9) apply for the purposes of paragraph (2).

(4) The following sections of the 2000 Act are to be read as if a reference to an authorised person included a person who was, at any time before 1st April 2019, a 2006 Act authorised person—

⁽²⁴⁾ Section 208(4) was amended by the Financial Services Act 2012 (c. 21), section 37(1) and paragraphs 1 and 15 of Schedule 9 and the Financial Services Act 2010 (c. 28), section 24(1) and (2), and paragraphs 1 and 19(1) and (4).

- (a) section 165 (regulators' power to require information), except subsection (7);
 - (b) section 166 (reports by skilled persons); and
 - (c) section 167(25) (appointment of persons to carry out general investigations).
- (5) Section 168 of the 2000 Act(26) is to be read as if, in subsection (4), after paragraph (a) there were inserted—
- “(ab) a person may be guilty of an offence under section 10, 11(1) or (2) of the Compensation Act 2006;
 - (ac) a person may have contravened section 4(1) of the Compensation Act 2006 or failed to comply with a requirement made under section 8(4) of that Act;”.
- (6) In section 175 (information and documents: supplemental provisions), subsections (2), (2A) and (2B)(27) have effect as if a reference to a document produced in response to a requirement imposed under Part 11 of the 2000 Act (“Part 11”) included a document given to the Regulator in compliance with a requirement made under—
- (a) regulation 33(1) (requirements for information under section 8(4) of the 2006 Act) of the 2006 Regulations; or
 - (b) regulation 36(1) (breaches by authorised persons of condition: requirement to provide information etc) of the 2006 Regulations.
- (7) In section 177 (offences)—
- (a) subsection (3) is to be read as if the reference to an investigation being or likely to be conducted under Part 11 included a relevant investigation; and
 - (b) subsections (1) and (4) are to be read as if the references to a requirement imposed under Part 11 included a requirement made under—
 - (i) regulation 33(1) of the 2006 Regulations; or
 - (ii) regulation 36(1) of the 2006 Regulations.
- (8) In section 398 (misleading FCA: residual cases) subsection (1A)(a) is to be read as if the reference to a requirement imposed by the 2000 Act included a requirement imposed under Part 11 (information gathering and investigations) as that Part applies with the modifications in paragraphs (4) to (7).
- (9) In section 400 (offences by bodies corporate etc) a reference to an offence under the 2000 Act includes an offence under section 177(3) or (4) as that section applies with the modifications in paragraph (7).

Unprofessional conduct: continuation of investigation commenced by the Regulator

56.—(1) This article applies where—

- (a) the Regulator commenced the investigation of a complaint or suspicion of unprofessional conduct of a person under regulation 35(1) or (2) of the 2006 Regulations (Regulator to investigate complaints or suspicions of unprofessional conduct); and
 - (b) on 1st April 2019, the investigation has not been concluded.
- (2) The FCA is deemed to have decided, immediately before 1st April 2019, that there is good reason for the appointment under section 167 of the 2000 Act of one or more competent persons to conduct an investigation on its behalf into the complaint or suspicion referred to in paragraph (1).

(25) Section 167 was amended by the Financial Services Act 2012 (c. 21), section 41.

(26) Section 168 was amended by the Counter Terrorism Act 2008 (c. 28), section 100(2), the Financial Services Act 2010 (c. 28), section 26(1)(g)(i), the Financial Services Act 2012, section 41, the Financial Guidance and Claims Act 2018 (c. 10), section 25, S.I. 2007/126, 2012/2554 and 2013/1773. There are other amendments, but none are relevant.

(27) Section 175 was amended by the Financial Services Act 2012 (c. 21), section 41.

Offences under the 2006 Act: continuation of investigation commenced by the Regulator and institution of criminal proceedings

57.—(1) This article applies where, before 1st April 2019, the Regulator commenced the investigation of an offence under Part 2 of the 2006 Act alleged to have been committed by any person (“A”).

(2) The FCA may continue the investigation and for that purpose—

- (a) section 168 of the 2000 Act (appointment of persons to carry out investigations in particular cases) applies in relation to the investigation with the modification set out in paragraph (3); and
- (b) for the purposes of that section as applied, the FCA is deemed to have decided, immediately before 1st April 2019, that there are circumstances suggesting that A may be guilty of an offence under Part 2 of the 2006 Act.

(3) For the purposes of paragraph (2), section 168 of the 2000 Act is to be read as if, in subsection (1)(b), at the end there were inserted “or under Part 2 of the Compensation Act 2006”.

(4) The FCA may institute criminal proceedings in respect of an offence under Part 2 of the 2006 Act in relation to which an investigation was continued by the FCA under paragraph (2).

Continuation of criminal proceedings instituted by the Regulator

58.—(1) This article applies to criminal proceedings (“relevant proceedings”) which—

- (a) were instituted by the Regulator under section 8(3)(b) of the 2006 Act in respect of an offence under section 7(1), 10(1) or 11(1) or (2) of that Act; and
- (b) on 1st April 2019, have not been concluded by acquittal or upon conviction and sentencing.

(2) The FCA may continue the prosecution of the defendant in relevant proceedings, and is for that purpose substituted for the Regulator as a party to the proceedings.

Continuation of injunction applications made by the Regulator

59.—(1) This article applies to an application for an injunction (“a relevant application”) which—

- (a) was made by the Regulator under section 8(1) of the 2006 Act⁽²⁸⁾; and
- (b) on 1st April 2019, has not been determined by the court.

(2) The FCA may continue the relevant application and is for that purpose substituted for the Regulator as a party to that application.

Continuation of application made by the Regulator for a search warrant

60.—(1) This article applies to an application for a search warrant made by the Regulator—

- (a) under section 8(5) of the 2006 Act (enforcement: the Regulator); or
- (b) under regulation 37(1) or (2) of the 2006 Regulations (search warrants for purposes of investigation of professional conduct).

(2) The FCA may continue the search warrant application and is for that purpose substituted for the Regulator as a party to that application.

⁽²⁸⁾ Section 8(1) was amended by the Legal Services Act 2007 (c. 29) and the Crime and Courts Act 2013 (c. 22).

Retention of records seized by an officer of the Regulator

61.—(1) This article applies where, before 1st April 2019, an officer of the Regulator took possession of any written or electronic records in accordance with an authorisation given by a judicial officer under regulation 40(4) of the 2006 Regulations.

(2) Section 176A(29) (retention of documents taken under section 176) of the 2000 Act has effect in relation to the written or electronic records concerned as if they were documents of which possession had been taken under section 176 of that Act.

Decision notices

62. In relation to any notice given by the Regulator to a person which, by virtue of this Chapter, is to be treated as a decision notice given under the 2000 Act—

- (a) it is immaterial that the notice does not meet the requirements specified in subsection (1) (b) to (e) of section 388 of that Act (decision notices); and
- (b) that section is to be read as if—
 - (i) subsection (2) were omitted;
 - (ii) in subsection (3) the words from “which relates” to the end were omitted;
 - (iii) for subsections (4) and (5) there were substituted—

“(4) A further decision notice given under subsection (3) may vary the original notice.

(5) If the person to whom a decision notice is given under subsection (3) had the right to refer the matter to which the original decision notice related to the First-tier Tribunal under section 13 of the Compensation Act 2006, that person has the right to refer the matter to which the decision notice under subsection (3) relates to the Tribunal.”.

Conditions and directions

63.—(1) This article applies where, in relation to a relevant person—

- (a) the Regulator—
 - (i) granted an authorisation under regulation 12(1) of the 2006 Regulations subject to a condition (“relevant condition”);
 - (ii) in relation to an authorisation under regulation 12(1) of the 2006 Regulations—
 - (aa) made a variation of the authorisation under regulation 46(2)(b) of the 2006 Regulations (“relevant variation”) by limiting the classes of claims management services that the person authorised by the authorisation may undertake or provide or otherwise varying the conditions of the authorisation; or
 - (bb) suspended the authorisation for a period under regulation 46(2)(a) of the 2006 Regulations (“relevant suspension”); or
 - (iii) gave a direction (“relevant direction”) to the relevant person under regulation 29(3) of the 2006 Regulations; and
- (b) immediately before 1st April 2019, the relevant condition, the relevant variation, the relevant suspension or the relevant direction still has effect.

(2) A relevant condition is to be treated as a requirement imposed by the FCA under section 55L(1) of the 2000 Act⁽³⁰⁾ which took effect on the date on which the authorisation was granted, and for that purpose the grant of the authorisation is to be treated as the giving by the FCA of a Part 4A permission.

(3) A relevant suspension is to be treated as a suspension imposed by the FCA under section 206A(1) of the 2000 Act which took effect—

(a) on 1st April 2019 for the purposes of section 206A(3) of the 2000 Act; and

(b) on the date on which the authorisation was suspended for all other purposes.

(4) A relevant direction is to be treated as a requirement imposed by the FCA under section 55L(3) of the 2000 Act which took effect on the date on which the direction was given.

(5) Where a relevant variation imposed a limitation or, by varying conditions (including imposing any additional condition), imposed a new or revised requirement, the limitation or the requirement is to be treated as a requirement imposed by the FCA under section 55L(3) of the 2000 Act which took effect on the date on which the variation was made.

(6) For the purposes of paragraphs (4) and (5) the relevant person is to be treated as having had, on the date on which the direction was given or the variation was made, a Part 4A permission to carry on a regulated claims management activity.

Fees and invoices

64.—(1) This article applies where—

(a) the Regulator issued an invoice to a person under regulation 15(1)(b) of the 2006 Regulations (determinations of fees); and

(b) on 1st April 2019, that person has not paid the Regulator the amount of the annual fee in accordance with the invoice.

(2) The amount payable under the invoice is payable to the FCA.

(3) If the whole or any part of the amount payable under the invoice has not been paid within one month after the date on which the invoice was issued, the FCA may recover the amount outstanding as a civil debt.

(30) Section 55L was inserted by the Financial Services Act 2012 (c. 21), section 11(2).