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STATUTORY INSTRUMENTS

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**2018 No. 1253**

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

**PART 6**

Consequential amendments, revocations and saving and supplemental provisions

**CHAPTER 4**

Saving and supplemental provisions

*SECTION 1*

*General provision*

**General scope of saving provisions**

**106.**—(1) Paragraphs (3) and (4) apply where, in relation to an enactment which is amended by Chapter 1 or Chapter 2 of this Part or is revoked by Chapter 3 of this Part, it is provided in this Chapter that despite the amendment or the revocation a relevant provision continues to have effect for specified purposes.

(2) “Relevant provision” means, in the case of an amendment, the provision which is amended or a specified provision of the enactment which is amended, and in the case of an enactment which is revoked, a specified provision of that enactment.

(3) The relevant provision continues to have effect—

- (a) only for the specified purposes; and
- (b) with any modification made for those purposes.

(4) Other provisions of the enactment which contains the relevant provision continue to have effect so far as is necessary to give effect to the saving made for the specified purposes.

*SECTION 2*

*Primary legislation*

**Courts and Legal Services Act 1990**

**107.** Section 58AA of the Courts and Legal Services Act 1990 has effect in relation to any damages-based agreement made before 1st April 2019 without the amendment made by article 90.

**Compensation Act 2006**

**108.**—(1) In this article a reference to a numbered section is a reference to the section so numbered in the Compensation Act 2006.

- (2) Despite articles 93 and 95(7)—
- (a) sections 7, 10 and 11 (offences) continue to have effect for the purposes of—
    - (i) article 55 (investigation and prosecution after 1st April 2019 in relation to conduct before that date) and article 57 (offences under the Compensation Act 2006: continuation of investigation commenced by the Regulator and institution of criminal proceedings) in relation to—
      - (aa) an investigation of a kind specified in article 55(a)(i) or (b) or 57 and the resulting prosecution of any criminal proceedings;
      - (bb) any conviction and sentencing of the defendant in such a prosecution;
    - (ii) article 58 (continuation of criminal proceedings instituted by the Regulator) in relation to any criminal proceedings to which that article applies;
  - (b) section 8(1) and (2) (power to apply for an injunction) continues to have effect for the purposes of article 59 (continuation of injunction applications made by the Regulator) in relation to any application for an injunction to which that article applies;
  - (c) section 8(5), (6) and (7) (power to issue a search warrant) continues to have effect for the purposes of article 60 (continuation of application made by the Regulator for a search warrant) in relation to any application for the issue of a warrant to which that article applies;
  - (d) sections 8(8), 9 and 15 and the Schedule to the Compensation Act 2006 (power to make regulations) continue to have effect for the purposes of article 111 (saving and supplemental provision for the Compensation (Claims Management Services) Regulations 2006);
  - (e) section 13(1), (1A), (3) and (3A) (appeals and references to Tribunal)—
    - (i) continues to have effect for the purposes of Part 3 of this Order in relation to any appeal to the First-tier Tribunal brought by a person under that section before 1st April 2019;
    - (ii) is to be read for those purposes as if, in subsection (3)(e), the reference to the Regulator, and in subsection (3A)(d), the first reference to the Regulator, were references to the FCA;
  - (f) section 13(2) and (3) continues to have effect for the purposes of article 67 (continuation of references made by the Regulator to the First-tier Tribunal) in relation to any reference to which that article applies; and
  - (g) Part 2 of the Compensation Act 2006 continues to have effect for the purposes of section 161 of the Legal Services Act 2007 (extension of Part 6 to claims management services) and article 111.

### **Legal Services Act 2007**

**109.**—(1) In this article a reference to a numbered section is a reference to the section so numbered in the Legal Services Act 2007.

- (2) Despite article 95(4) section 161 continues to have effect—
- (a) for the purposes of an application to the court made under section 141(2) or (3) in relation to a direction under section 137(2) contained in the determination of any complaint to which article 69 applies (complaints made before 1st April 2019); and
  - (b) in relation to the application, for those purposes, of sections 141 and 142(1) and (2).

(3) For the purposes of paragraph (2) section 142(2) is to be read as if the reference to “each relevant authorising body” were a reference to the FCA and the scheme operator (as defined in article 68).

(4) Despite article 95(4) section 161 continues to have effect—

- (a) for the purposes of article 79(2) (information and reports) in relation to any enquiry by the court of a kind referred to in article 79(2)(b); and
- (b) in relation to the application, for those purposes, of section 149(3), (4) and (7).

(5) Despite article 95(4) section 161 continues to have effect—

- (a) for the purposes of a decision by the ombudsman under article 74(2) (funding and charges); and
- (b) in relation to the application, for those purposes, of rules made under section 136(1).

### **Legal Aid, Sentencing and Punishment of Offenders Act 2012**

**110.**—(1) This article applies for the purposes of article 55 (investigation and prosecution after 1st April 2019 in relation to conduct before that date) in relation to the continuation, taking or commencement by the FCA of any action for monitoring and enforcing the restrictions in section 56(1) and (2) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (“the 2012 Act”).

(2) Section 57 of the 2012 Act (effect of rules against referral fees) is to be read as if subsection (4) were omitted.

(3) Section 59 of the 2012 Act (Regulators and regulated persons)—

- (a) continues to have effect without the amendment made by article 96; and
- (b) is to be read as if the reference to the Claims Management Regulator in the first column of each of the tables in subsections (1) and (2) were a reference to the FCA.

### *SECTION 3*

#### *Secondary legislation*

### **Compensation (Claims Management Services) Regulations 2006**

**111.**—(1) In this article a reference to a numbered regulation is a reference to the regulation so numbered in the Compensation (Claims Management Services) Regulations 2006.

(2) Despite article 105(c) regulation 48 continues to have effect for the purposes of consideration by the FCA of whether a person is liable for a relevant default (within the meaning given in article 51(1) (penalties for conduct for which the Regulator has not given notice of proposed penalty)).

(3) Despite article 105(c) regulation 35 continues to have effect for the purposes of the conduct by the FCA of—

- (a) an investigation by the FCA of a kind referred to in article 55(1)(a)(ii) or (iii) (investigation and prosecution after 1st April 2019 in relation to conduct before that date);
- (b) an investigation on the FCA’s behalf of a kind referred to in article 56(2) (unprofessional conduct: continuation of investigation commenced by the Regulator).

(4) Despite article 105(c) regulations 34 and 37 to 45 (search warrants) continue to have effect for the purposes of article 60 (continuation of application made by the Regulator for a search warrant), and for those purposes—

- (a) regulations 40 to 44A are to be read as if regulation 38(2) (definitions) defined a reference to an officer of the Regulator by reference to an officer authorised by the FCA for the purposes of section 165(3) of the 2000 Act;
- (b) regulations 34(2) and (5)(c), 37(1), (2) and (5), 39 and 40(1) and (4) are to be read as if a reference to the Regulator, apart from in a reference to an officer of the Regulator, were a reference to the FCA; and
- (c) regulation 34(2) and (5)(c) is to be read as if a reference to regulation 33 were a reference to section 165 of the 2000 Act (Regulators' power to require information: authorised persons etc).

### **Damages-Based Agreements Regulations 2013**

**112.** The Damages-Based Agreements Regulations 2013 continue to have effect in relation to any damages-based agreement made before 1st April 2019 without the amendment made by article 102.