



# EXPLANATORY NOTES

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## Financial Guidance and Claims Act 2018

### Chapter 10

£11.50



# FINANCIAL GUIDANCE AND CLAIMS ACT 2018

## EXPLANATORY NOTES

### What these notes do

These Explanatory Notes relate to the Financial Guidance And Claims Act 2018 (c. 10) which received Royal Assent on 10 May 2018.

- These Explanatory Notes have been prepared by the Department for Work and Pensions and HM Treasury in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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*These Explanatory Notes relate to the Financial Guidance And Claims Act 2018 (c. 10) which received Royal Assent on 10 May 2018*

## Overview of the Act

- 1 The Act ensures that members of the public are able to access free and impartial money guidance, pensions guidance and debt advice. It also ensures that they are able to access high-quality claims handling services by strengthening the regulation of claims management companies.
- 2 To enable this the Act makes provision for the following:
  - a. Creation of a single financial guidance body and provision for the funding of debt advice in the devolved administrations
  - b. Transfer of claims management regulation from the Claims Management Regulation Unit in the Ministry of Justice to the Financial Conduct Authority, as well as measures to restrict fees charged for claims management services (unless prior consent has been given)
- 3 The Act also makes provision for two connected purposes:
  - a. Creation of a debt respite scheme (also known as a 'Breathing Space' scheme) by secondary regulations
  - b. Introduction of a ban on cold-calling by secondary regulations
- 4 Regulations to create a debt respite scheme may only be made by the Secretary of State following receipt of advice on this matter from the single financial guidance body.

## Policy background

### Single Financial Guidance Body

- 5 The Financial Guidance and Claims Act 2018 builds on a Government commitment to ensure that members of the public can access good-quality, free-to-client, impartial financial guidance and debt advice.
- 6 Government-sponsored pensions guidance, money guidance and debt advice is currently provided by the Money Advice Service, the Pensions Advisory Service, and the Department for Work and Pensions under the 'Pension Wise' banner.
- 7 In October 2015 the Government launched a review of public financial guidance provision in the United Kingdom. The review, *Public financial guidance consultation*<sup>1</sup>, sought views on how publicly funded pensions guidance, debt advice and money guidance (including financial capability) could best be structured to help people make effective financial decisions.

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<sup>1</sup> [Consultation: public financial guidance - GOV.UK](#)

- 8 In March 2016 the Government set out proposals to replace the Money Advice Service with a new, streamlined money guidance body, and to bring together the Pensions Advisory Service and 'Pension Wise' into a new pensions guidance body (*Public financial guidance review: proposal for consultation*<sup>2</sup>). Whilst stakeholders were generally supportive of the Government's aims, concerns were raised over how the two bodies would work together, and whether a single body could provide a better, more streamlined service.
- 9 In October 2016, the Government took the decision to create one single financial body instead of two, and in December 2016 HM Treasury and the Department for Work and Pensions published a further consultation, *Public financial guidance review: consultation on a single body*<sup>3</sup>, setting out proposals for a single financial guidance body that could provide more joined up debt advice, money guidance and pensions guidance, support the development of a national strategy to improve financial capability and debt management, and co-ordinate the provision of financial education to children and young people. This consultation closed in February 2017.
- 10 The Financial Guidance and Claims Act 2018 includes provisions which will allow the Secretary of State to make regulations banning cold calling in connection with pensions and financial products and services. As part of its consumer protection function, the single financial guidance body will also have to consider the effect of cold calling on consumers and advise the Secretary of State whether to introduce bans on cold calling in respect of financial products and services.
- 11 The Act also requires the Secretary of State to seek advice from the body on the establishment of a debt respite scheme and allows the Secretary of State to make regulations to introduce such a scheme after receiving this advice. The Act will also require the Financial Conduct Authority to make rules which require members of personal and stakeholder pension schemes to be referred to guidance before they access or transfer their pension. It also requires the Secretary of State and the Department for Communities in Northern Ireland to make secondary regulations placing corresponding requirements on occupational pensions schemes.

## Claims Management Services

- 12 Claims management companies are businesses which provide advice and / or other services in relation to the making of compensation claims for personal injuries, financial products and services, employment issues, industrial and criminal injuries and housing disrepair. There are currently around 1,400 authorised claims management companies in operation.
- 13 The Claims Management Regulation Unit was established in the Ministry of Justice in April 2007, and regulates claims management companies active in England and Wales. This was intended to be an interim measure.
- 14 However, there is evidence of malpractice in the sector and a number of complaints have been leveled at claims management companies. Common complaints included poor value for money, misrepresentation of the service offered to consumers, and reliance on nuisance tactics, such as unsolicited calls and texts. As a result, consumers have become distrustful of claims management companies, with 76% of the public having reported that they are not confident that the companies tell the truth to their customers.

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<sup>2</sup> [Public financial guidance review: proposal for consultation](#)

<sup>3</sup> [Public financial guidance review: consultation on a single body](#)

- 15 At Summer Budget 2015, the Government commissioned an independent review, led by Carol Brady<sup>4</sup>, to examine claims management regulation and make recommendations to improve conduct in the sector. Following this review, the Government announced at Budget 2016 its intention to establish a tougher regulatory regime for claims management companies by transferring supervisory responsibility from the Ministry of Justice to the Financial Conduct Authority.
- 16 Part 2 of the Act makes amendments to the Financial Services and Market Act 2000 to enable the Financial Conduct Authority to regulate claims management company activity as a 'regulated activity' under the Act.
- 17 The Act also provides for the transfer of complaints-handling responsibility from the Legal Ombudsman to the Financial Ombudsman Service. This will allow the Financial Ombudsman Service to take over jurisdiction to investigate and determine consumer complaints about the service provided by the claims management companies.
- 18 The Financial Conduct Authority, and relevant legal services regulators (the Law Society of England & Wales, the General Council of the Bar and the Chartered Institute of Legal Executives) have been given the power to impose a cap on the fees that claims management companies can charge for their services, and the Financial Conduct Authority and Law Society of England & Wales a duty to exercise this power in respect of financial products or services.
- 19 The Law Society of Scotland has been given a power to make rules in relation to a financial product or service and the Treasury has been given the power, with the consent of Scottish Ministers, to extend this power to other claims management services.
- 20 The Act also provides for the introduction of an interim fee cap on services in relation to payment protection insurance (PPI) claims, in order to ensure consumers are protected against excessive fees before the Financial Conduct Authority and the Law Society of England & Wales implement their financial services fee cap. This is especially pertinent given the PPI complaints deadline in August 2019 and preceding communications campaign, during which time complaints volumes are expected to rise.
- 21 The Act provides for a ban on cold calling (unless prior consent has been given) by amending the Privacy and Electronic Communications Regulations. This will add to the Government's package of measures to tackle unsolicited marketing calls.
- 22 The Act also includes a power for the Ministry of Justice to put into place a transfer scheme for assets and liabilities of the Claims Management Regulation Unit to the Financial Conduct Authority, and a scheme providing for the transfer of staff.

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<sup>4</sup> [Claims management regulation review: final report - GOV.UK](#)



## Legal background

### Single Financial Guidance Body

- 23 Government-sponsored pensions guidance, money guidance and debt advice is currently provided by the Money Advice Service (a not-for-profit company originally established by the Financial Conduct Authority under section 6A of the Financial Services and Markets Act 2000), the Pensions Advisory Service (which is incorporated as a not-for-profit company limited by guarantee) and the Department for Work and Pensions under the 'Pension Wise' banner (under Part 20A of the Financial Services and Markets Act 2000).

### Claims Management Services

- 24 Previously the functions of the claims management regulator were carried out by the Secretary of State for Justice (through officials at the Claims Management Regulation Unit), under Part 2 of the Compensation Act 2006<sup>5</sup> (and secondary legislation made under it). These provisions will be repealed, as part of the transfer of functions, in this Act.
- 25 The Financial Services and Markets Act 2000 (the 2000 Act) sets out the legislative basis and remit of the Financial Conduct Authority. It provides the legislative framework for the Financial Conduct Authority to authorise entities undertaking "regulated activities" and "controlled activities". The sections in this Act amend the 2000 Act, and provide for certain requirements and powers on the Financial Conduct Authority and the Secretary of State, to enable the transfer of regulation from the Ministry of Justice to the Financial Conduct Authority. The sections will be supplemented by secondary legislation made under powers in the 2000 Act.
- 26 Complaints by consumers about the service provided by regulated claims management companies will also be transferred from the Legal Ombudsman to the Financial Ombudsman Service. The sections will also permit the Secretary of State to put in place a transfer scheme for staff, assets and liabilities of the Claims Management Regulation Unit to the Financial Conduct Authority.

## Territorial extent and application

### Single Financial Guidance Body

- 27 The single financial guidance body will deliver its pensions guidance function, money guidance function, consumer protection function and strategic function UK-wide.
- 28 The single financial guidance body's debt advice function will only apply to England.
- 29 A cold-calling ban created through regulations may apply to any or all of England, Northern Ireland, Scotland and Wales or any combination of these.
- 30 A debt respite scheme created through regulations may apply in England only, England and Wales, England and Northern Ireland or in England, Wales and Northern Ireland.
- 31 The full detail of the territorial extent and application of the sections is set out at Annex A.

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<sup>5</sup> Compensation Act 2006: <http://www.legislation.gov.uk/ukpga/2006/29/contents>

## Claims Management Services

- 32 The Financial Conduct Authority will regulate claims management services being provided within Great Britain only, and Part 2 of the Act, which deals with claims management services, therefore extends to England, Scotland and Wales with the exception of section 27(14) and Schedule 4, and section 30 and section 32 (PPI claims: interim restriction on charges before the transfer of regulation to the FCA) which deal with matters relating to claims management services under the current regulatory regime that is limited to England and Wales only, and the new section 35 (cold calling about claims management services) which extends to England, Wales, Scotland and Northern Ireland.
- 33 Sections 27 to 34 relate to competition and consumer protection which are reserved matters under the Scotland Act 1998 and so outside the legislative competence of the Scottish Parliament except for the provision that enables a designated consumer body to make a complaint to the Financial Conduct Authority in relation to the claims management market in section 27(6). As this falls within the consumer advocacy exception to the C7 consumer protection reservation, it is the Government's view that a legislative consent motion is triggered in respect of that provision only.
- 34 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.
- 35 Sections 30 and 32 and Schedule 4, received English Votes for English Laws consent on 24 April 2018.

# Commentary on provisions of Act

## Part 1: Financial Guidance Etc

### Establishment of the single financial guidance body

#### Section 1: The single financial guidance body

- 36 Subsection (1) establishes a new non-departmental public body, which will be referred to as the single financial guidance body until it is named.
- 37 Subsection (2) introduces Schedule 1 which contains further provisions regarding the governance and accountability of the body.
- 38 Subsection (3) gives the Secretary of State the power to make regulations to name the body.
- 39 Subsection (4) allows the regulations that name the body to replace 'single financial guidance body' with the actual name of the body in Part 1 of the Act and in Acts amended by Part 1.
- 40 Subsection (5) requires that power to make these regulations is exercisable by statutory instrument under the negative resolution procedure.
- 41 Subsection (6) dissolves the consumer financial education body, which is also known as the Money Advice Service.
- 42 Subsection (7) introduces Schedule 2 which makes provision for the transfer of staff, property, rights and liabilities firstly from the Secretary of State and the Pensions Advisory Service to the single financial guidance body; and secondly from the consumer financial education body, which is also known as the Money Advice Service, to the single financial guidance body and the devolved authorities. Such transfers are effected by a 'transfer scheme'.

#### Schedule 1: The single financial guidance body

- 43 Schedule 1 provides for the membership of the single financial guidance body and how it exercises its functions. In particular it provides for the following.
- 44 Paragraph 2 contains provisions which define the composition of the single financial guidance body's board and how those members will be appointed.
- 45 Paragraph 3 contains provisions related to the terms and conditions of appointments of non-executive members.
- 46 Paragraph 4 requires the Secretary of State to be satisfied that a person does not have any conflict of interest before appointing that person to be a non-executive member.
- 47 Paragraph 5 allows the single financial guidance body to pay non-executive members remuneration, allowances or gratuities as determined by the Secretary of State. It also provides for the single financial guidance body to pay compensation to a non-executive member if they cease to hold office before their term of office has expired.
- 48 Paragraph 6 requires the Secretary of State to appoint the initial executive members of the single financial guidance body, including the first chief executive. Subsequently, all executives will be appointed by the body, with the approval of the Secretary of State.

- 49 Paragraph 9 allows the single financial guidance body to establish committees to carry out its functions, or to provide advice on matters relating to the exercise of its functions. It allows the body to pay remuneration and expenses to members of a committee who are neither a member of the body's board nor an employee of the body. It also allows committees to establish a sub-committee.
- 50 Paragraph 10 allows the single financial guidance body to delegate any of its functions to members, employees and committees. A committee may delegate any functions delegated to it to a sub-committee, to a member of a committee, a member of the body's board or an employee of the body.
- 51 Paragraph 11 allows the single financial guidance body to regulate its own procedures and any procedures established in relation to its committees and sub-committees.
- 52 Paragraph 14 requires the single financial guidance body to prepare an annual report on the exercise of its functions, and on anything else directed to be included by the Secretary of State. The Secretary of State must lay both the annual report from the single financial guidance body and also the report by the Comptroller and the Auditor General on the statement on the accounts of the single financial guidance body before Parliament.
- 53 Paragraph 14 also requires the single financial guidance body to keep proper accounts and prepare an annual statement on the accounts for each financial year. This statement on the accounts must be sent to the Secretary of State and the Comptroller and the Auditor General. The Comptroller and the Auditor General must then examine the statement of accounts and compose a report on it, which must be sent to the Secretary of State.

## Schedule 2: Transfer of schemes under Section 1

- 54 Paragraph 1 provides the Secretary of State with the power to make schemes transferring the property, rights and liabilities of The Pensions Advisory Service, and the Secretary of State to the single financial guidance body.
- 55 Paragraph 3 provides the Secretary of State with the power to modify a transfer scheme with the proviso that, if the scheme has already come into effect, such a modification can only be made with the agreement of the person or persons affected. A modification takes effect from the date specified by the Secretary of State.

## Objectives and functions of the single financial guidance body

### Section 2: Objectives

- 56 Subsections (1) and the definition in subsection (3) set out the objectives of the single financial guidance body.
- 57 Subsection (2) requires the body to have regard to the objectives when carrying out its functions.

### Section 3: Functions

- 58 Subsection (1) gives the single financial guidance body five of its functions. These are the pensions guidance function, the debt advice function, the money guidance function, the consumer protection function and the strategic function. They are described in greater detail later on in the section.
- 59 Subsection (2) confers the additional function on the single financial guidance body of providing the Secretary of State with advice and assistance on matters relating to any of its functions and on the establishment of a debt respite scheme.

- 60 Subsection (3) makes provision for the body to perform any activities incidental or conducive to the exercise of its functions.
- 61 Subsection (4) to (7) and subsection (9) provide a description of each of the five functions that are listed in subsection (1).
- 62 The debt advice function (subsection (5)) applies to England only. The devolved authorities will be responsible for the provision of information on debt and debt advice for individuals in Scotland, Wales and Northern Ireland. This does not form part of this Act but note section 14 which makes provision for funding debt advice in the devolved authorities.
- 63 Subsection (8) requires the body to consider the needs of individuals across its pensions, money and debt advice functions when either it, or its delivery partners, is providing information, guidance, or advice in one of these areas.
- 64 Subsection (10) stipulates that in providing the strategic function the body must work with others, for example those in the financial services industry, the devolved authorities and those in the public and voluntary sectors.

#### Section 4: Specific requirements as to the pensions guidance function

- 65 Section 4 requires the single financial guidance body to provide information and guidance for the purposes of helping a pension scheme member, or the survivor of a member, to make decisions about what to do with the 'flexible benefits' that may be provided to them.
- 66 Subsection (2) ensures that this includes members and survivors of schemes for which the Pension Protection Fund (PPF) has assumed responsibility. Where this is the case, references to flexible benefits are to be read as references to the money purchase benefits that may be provided by the PPF.

#### Section 5: Delegation of functions to delivery partner organisations

- 67 Section 5 enables the single financial guidance body to make arrangements for another person (a single financial guidance body delivery partner) to carry out its pensions guidance, money guidance and debt advice functions. These functions can be further delegated to a secondary delivery partner, but any further delegation must be with the consent of the single financial guidance body.

#### Section 6: Debt respite scheme: advice to the Secretary of State

- 68 Subsection (1) 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 the new body's establishment.
- 69 Subsection (2) describes what the debt respite scheme is designed to do. It can do one or more of a) protect indebted individuals from further interest and charges, b) protect indebted individuals from enforcement action from their creditors, or c) ensure that debtors and creditors can devise a plan to repay some or all of their debts affordably.
- 70 Subsection (3) states what kind of issues the Secretary of State may request the single financial guidance body provide advice on, in respect of the design, operation and implementation of the scheme. The Secretary of State may also ask for advice on aspects of a debt respite scheme that are not listed in the subsection.
- 71 Subsection (4) states that the single financial guidance body must provide the advice sought by the Secretary of State within 12 months of its establishment.
- 72 Subsection (5) states that the Secretary of State must publish the advice.

## Section 7: Debt respite scheme: regulations

- 73 Subsection (1) states that the Secretary of State must consider whether to make regulations for the establishment of a debt respite scheme as soon as is reasonably practicable, after receiving advice from the single financial guidance body on the scheme's design, operation and implementation.
- 74 Subsection (2) enables the Secretary of State to make regulations establishing a debt respite scheme after receiving the advice on the scheme from the single financial guidance body.
- 75 Subsection (3) details that the regulations must take into account the advice on the scheme given by the single financial guidance body.
- 76 Subsection (4) details that the regulations can ensure the scheme applies to England only, a combination of England, and Wales or Northern Ireland, or for the regulations to apply across England, Wales and Northern Ireland.
- 77 Subsection (5) provides that the regulations for the debt respite scheme can make different provision for different geographical areas, and for different purposes. It also allows for the regulations to make incidental, supplemental, consequential, transitional or saving provision. As well, the regulations allow for obligations entered into or debts due to be repaid before the regulations come into force to be included in a debt respite scheme.
- 78 Subsection (6) states that any provision that is incidental, supplemental, consequential, transitional or saving can amend any provision made under an Act of Parliament, a Measure or Act of the National Assembly of Wales should the debt respite scheme apply in Wales, and Northern Ireland legislation should the scheme apply in Northern Ireland.
- 79 Subsection (7) states that regulations to establish a debt respite scheme will be made through a statutory instrument.
- 80 Subsection (8) states that the regulations can only be made should they be approved by a resolution of each House of Parliament, the National Assembly of Wales should the debt respite scheme apply in Wales, and the Northern Ireland Assembly, should the scheme apply in Northern Ireland.

## Section 8: Guidance and directions from the Secretary of State

- 81 This section gives the Secretary of State the power to give the single financial guidance body guidance and direction on the way it exercises its functions.
- 82 Subsection (2) specifies that any directions must be published and subsection (3) specifies that the body must take note of guidance and comply with directions.

## Standards set by the single financial guidance body

### Section 9: Setting standards

- 83 Section 9 requires the single financial guidance body to set standards from time to time which must be complied with by those who deliver its pensions guidance, money guidance and debt advice functions. As such these standards will apply to both the body itself and to the body's delivery partners. The standards which the body has proposed must be approved by the Financial Conduct Authority before they are finalised and must be published.
- 84 When deciding whether to approve the proposed standards the Financial Conduct Authority must take into account the needs of the people who are using, or who may use, the information, guidance and advice services which will be provided by the body and its delivery partners.

## Section 10: Monitoring and enforcement of standards

- 85 Section 10 requires the single financial guidance body to monitor compliance with the standards. It also requires the Financial Conduct Authority to review and assess the body's standards and its monitoring and enforcement regime at least once every three years. The Financial Conduct Authority must provide a report on its review to the body and the Secretary of State.

## Funding of the single financial guidance body

### Section 11: Financial assistance from the Secretary of State

- 86 This section allows the Secretary of State to pay grants, make loans or provide other forms of financial assistance to the single financial guidance body to meet expenditure in connection with both the establishment of the body and for the purpose of enabling the body to carry out its functions. Such financial assistance may be subject to conditions set by the Secretary of State.

### Section 12: Levies under Pension Schemes Act 1993 and Pension Schemes (NI) Act 1993

- 87 This section amends the provision of the Pension Schemes Act 1993 which enables the Secretary of State to make regulations imposing levies to meet specified types of expenditure. This amendment adds expenditure under section 11 to the list of types of expenditure that levies can be imposed to meet. This will enable the Secretary of State to recover a proportion of the funding of the single financial guidance body. The section also makes equivalent provision in relation to the Pension Schemes (Northern Ireland) Act 1993.

### Section 13: Levy under FSMA 2000 for expenses of single financial guidance body

- 88 Section 13 inserts a new section 137SA into the Financial Services and Markets Act 2000 which enables two processes. Firstly, it gives the Secretary of State the power to notify the Financial Conduct Authority of expenses incurred or expected to be incurred in connection with the single financial guidance body. Secondly, it provides that the Financial Conduct Authority must then make rules to impose levies to cover those expenses and its own expenses. Subsections (3) to (11) of new section 137SA impose various requirements on these processes, such as a requirement for the Financial Conduct Authority to consult the Secretary of State before it publishes drafts of the rules.
- 89 Section 13(2) provides that things done by the Financial Conduct Authority before the Act is passed may satisfy the specified consultation requirements.
- 90 Section 13(3) provides that the rules made under the new section 137SA can impose levies to recover expenses incurred by the Financial Conduct Authority before the day on which the Act is passed.

## Funding of debt advice in Scotland, Wales and Northern Ireland

### Section 14: Levy under FSMA 2000 for debt advice expenses of devolved authorities

- 91 Section 14 sets out similar provisions to section 13 in the context of a levy for debt advice expenses of devolved authorities. It inserts a new section 137SB into the Financial Services and Markets Act 2000. This allows the Financial Conduct Authority to make rules to recover expenses incurred or expected to be incurred by the devolved authorities in connection with debt advice from the Financial Service Levy.

- 92 The new section 137SA enables two processes. Firstly it gives the Treasury the power to notify the Financial Conduct Authority of the relevant expenses of the devolved authorities. Secondly it provides that the Financial Conduct Authority must then make rules to impose levies to cover those expenses and its own expenses. Subsections (3) to (10) of the new section 137SB impose various requirements on these processes, such as a requirement for the Financial Conduct Authority to consult the Treasury before it publishes drafts of the rules.
- 93 Section 14(2) provides that things done by the Financial Conduct Authority before this Act is passed may satisfy the specified consultation requirements.
- 94 Section 14(3) provides that the rules made under the new section 137SB can impose levies to recover expenses incurred by the Financial Conduct Authority before the day on which this Act is passed.

## **Offence of impersonating the single financial guidance body**

### **Section 15: False claims about provision of information etc**

- 95 The context of sections 15 and 16 is the need to protect the public and the integrity of the single financial guidance body from those who seek to defraud the public by impersonating the body.
- 96 Section 15 makes it an offence for a person to create the impression that they are providing information, guidance or advice on behalf of the body when this is not the case. There is a defence available to those who can prove that they took reasonable steps to avoid committing the offence.

### **Section 16: Offences under section 16 committed by bodies corporate etc**

- 97 Section 16 is designed to make it easier to prosecute individual members of organisations where the offence is committed by an organisation. This section makes provision as to the circumstances in which partners in a partnership and directors and officers of bodies corporate and unincorporated associations may be found guilty of an offence under section 15 where an offence has been committed by the relevant partnership, body or association.
- 98 The section also ensures that court procedures and rules will operate effectively in such cases.

## **Information exchange**

### **Section 17: Disclosure of information**

- 99 Section 17 contains gateways for the disclosure of information relating to the single financial guidance body.

## **Rules etc about financial guidance**

### **Section 18: Personal pension schemes: requirements to refer members to guidance etc**

- 100 This section amends section 137FB of the Financial Services and Markets Act 2000 (FCA general rules: disclosure of information about the availability of pensions guidance).
- 101 Subsection (2) amends section 137FB to require the Financial Conduct Authority to make rules requiring the trustees or managers of personal and stakeholder pension schemes to refer members and survivors to appropriate guidance, provided by the single financial guidance body or one of its delivery partners, as part of the application process when a member or survivor applies to access or transfer their pension benefits. The rules must also require the trustees or managers to ensure that the member or survivor is provided with an explanation of the nature and purpose of the guidance.



- 102 This subsection also requires the rules to provide that the trustees or managers must ensure that the member or survivor has received guidance or opted out of receiving guidance before they can access or transfer their pension benefits.
- 103 The rules can make further provision about these requirements. This could include specifying how the confirmation that the member or survivor has received guidance or wants to opt out of receiving guidance must be given. The rules can also include exceptions where these requirements do not apply.
- 104 Subsections (4) and (6) provide that before making these rules, the Financial Conduct Authority must consult both the Secretary of State and the single financial guidance body and have regard to any regulations that are in force under section 113B of the Pension Schemes Act 1993.
- 105 Subsection (7) amends the definition of pensions guidance in subsection (4) of Section 137FB of the Financial Services and Markets Act 2000.

### Section 19: Occupational pension schemes: requirements to refer members to guidance etc

- 106 Subsections (1) and (2) require the Secretary of State to make regulations which place corresponding requirements on occupational pension schemes in England, Wales and Scotland to those which the Financial Conduct Authority will be required to introduce in rules made as a result of section 18. They do so by inserting new section, 113B, into the Pension Schemes Act 1993.
- 107 Subsections (6) and (7) require the Department for Communities in Northern Ireland to make equivalent provision in regulations in respect of occupational pension schemes in Northern Ireland. They do so by inserting a new section 109B into the Pension Schemes (Northern Ireland) Act 1993.

### Section 20: FCA general rules: information about the availability of guidance

- 108 Section 20 inserts a new section 137FC into the Financial Services and Markets Act 2000. This requires the Financial Conduct Authority to make general rules requiring specified authorised persons to signpost persons specified in the rules to financial guidance. The Financial Conduct Authority must consult the Secretary of State, the Treasury, and the single financial guidance body before publishing the rules.

## Unsolicited direct marketing approaches

### Section 21: Unsolicited direct marketing: pensions

- 109 Subsection (1) enables the Secretary of State to make regulations to ban unsolicited direct marketing in relation to pensions.
- 110 Subsection (2) describes specific aspects that regulations made under this section may contain.
- 111 Subsection (3) describes that the regulations may make different provision for different purposes and areas, and make incidental, supplementary, consequential, transitional or saving provision.
- 112 Subsection (4) confirms that regulations made under the section will be made by statutory instrument.
- 113 Subsection (5) describes that regulations made under this section must be passed by both Houses of Parliament.

- 114 Subsection (6) describes that the Secretary of State must publish and lay a statement to both Houses of Parliament if regulations have not been made under this section.
- 115 Subsection (7) gives the meaning of 'OFCOM'.

## Section 22: Unsolicited direct marketing: other consumer financial products etc

- 116 Subsection (1) confirms that the Secretary of State must keep under review whether banning unsolicited direct marketing in relation to consumer financial products and services would be appropriate.
- 117 Subsection (2) confirms that the Secretary of State believes that a ban would be appropriate, they may apply regulations made under section 21 to a specific type of unsolicited direct marketing, with or without modification.
- 118 Subsection (3) describes that the Secretary of State must take into account any advice received from the single financial guidance body under the consumer protection function.
- 119 Subsection (4) describes that regulations made under this section may make different provision for different purposes and areas, and make incidental, supplementary, consequential, transitional or saving provision.
- 120 Subsection (5) confirms that regulations made under the section will be made by statutory instrument.
- 121 Subsection (6) describes that the Secretary of State must publish and lay a statement to both Houses of Parliament if regulations have not been made under this section.

## Miscellaneous

### Section 23: Power to dissolve the single financial guidance body

- 122 Section 23 requires the Secretary of State to keep under review the question of whether the single financial guidance body should be dissolved and gives the Secretary of State the power to dissolve the single financial guidance body through regulations. Before laying any draft regulations, the Secretary of State must carry out a public consultation beginning at least 12 weeks before any draft regulations are laid.
- 123 Section 23 specifies that the regulations may make provision for the transfer of various matters, including the body's functions and assets, to the Secretary of State or any other person. It also makes provision for the Secretary of State to compensate anyone who suffers financially as a result of the dissolution of the body.

### Section 24: Regulations dissolving the new single financial guidance body: procedure

- 124 Section 24 describes the procedure for making regulations to dissolve the single financial guidance body. It provides that the Secretary of State can only make the regulations if both Houses of Parliament approve the draft regulations within 40 days of them being laid, which is referred to as the '40-day affirmative procedure'. It also sets out the circumstances in which the 'super-affirmative procedure' should apply.
- 125 This enhanced procedure provides an extended timescale of 60 days within which both Houses of Parliament must approve the regulations before they can be made. During this 60 day period the Secretary of State must have regard to matters raised by any representations, resolution of either House of Parliament and recommendations of a committee of either House charged with reporting on the draft regulations.

- 126 If the Secretary of State wishes to make any material changes to the draft regulations once they have been approved under the ‘super-affirmative procedure’ then revised regulations may be laid in Parliament along with a statement summarising the changes.

### Section 25: Minor and consequential amendments

- 127 This section introduces Schedule 3, which makes minor and consequential amendments to existing legislation to reflect the establishment of the single financial guidance body.

### Schedule 3: Minor and consequential amendments relating to Part 1

- 128 Paragraphs 1 to 4 insert a reference to ‘the single financial guidance body’ into the relevant Schedules of the Public Records Act 1958, the Parliamentary Commissioner Act 1967, the House of Commons Disqualification Act 1975 and the Northern Ireland Assembly Disqualification Act 1975.
- 129 Paragraphs 5 to 22 make consequential amendments to the Financial Services and Markets Act 2000, including the removal of legislation relating to the consumer financial education body, known as the Money Advice Service.
- 130 Paragraphs 23 to 24 amend the Freedom of Information Act 2000 and the Equality Act 2010 to ensure that the single financial guidance body is subject to these Acts.
- 131 Paragraphs 25 to 32 amend current legislation in the areas of financial services and pensions guidance. They repeal Part 20A of the Financial Services and Markets Act 2000, which places a duty on the Secretary of State to provide access to the pensions guidance that is known as ‘Pension Wise’. This guidance will be given by the single financial guidance body, with the exception of guidance on the secondary annuities market.

### Section 26: Interpretation of Part 1

- 132 Section 26 defines key terms and provides that all references made in Part 1 to the “Secretary of State” mean either the Secretary of State or the Treasury other than the references in section 1(7)(a) and the first subparagraph of paragraph 1 of Schedule 2.
- 133 The specific responsibilities of ministers in the Department for Work and Pensions and the Treasury will be set out in a published memorandum of understanding.

## Part 2: Claims Management Services

### Transfer of regulation of claims management services to FCA

#### Section 27: Transfer to FCA of regulation of claims management services

- 134 Subsection (2) amends Section 1H of the Financial Services and Markets Act 2000 so that references in the Financial Conduct Authority’s statutory objectives to “regulated financial services” includes services provided by authorised persons in communicating, or approving the communication by others of, invitations to engage in claims management activity.
- 135 Subsection (3) amends section 21 of the 2000 Act so that a person cannot communicate an invitation or inducement to engage in controlled claims management activity unless authorised. A new subsection (10A) and (10B) is inserted into Section 21. They set out what constitutes a controlled claims management activity. Subsection (2) also amends the reference in Paragraph 25 of Schedule 2 to the 2000 Act so as to enable the order-making power in that paragraph to apply in respect of those provisions only.

- 136 Subsection (4) amends Section 22 of the 2000 Act so that the Treasury is able to specify ‘claims management’ activity as a “specified activity” for the purposes of that Act and the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>6</sup>. It adds an additional subsection (1B) to Section 22, which clarifies that an activity is a regulated activity for the purpose of the Act if it is an activity of a specified kind which is carried on by way of business and relates to a claim of a specified kind.
- 137 Subsection (5) amends section 137R of the 2000 Act so that the Financial Conduct Authority may make rules about the communication, or the approval of another person’s communications by authorised persons, of invitations or inducements to engage in claims management activity.
- 138 Subsection (6) amends Section 243C (Complaints to the Financial Conduct Authority by consumer bodies) of the 2000 Act 2000 to enable a designated consumer body to make a complaint to the Financial Conduct Authority in respect of the market in Great Britain for claims management services where the market is damaging the interests of consumers.
- 139 Subsections (7), (8) and (9) amend provisions in the 2000 Act relating to the Financial Conduct Authority’s competition powers. The relevant competition powers under Part 16A of the 2000 Act will apply to claims management services in Great Britain.
- 140 Subsection (10) inserts into Section 417 (definitions) a definition of “regulated claims management activity” for the purpose of the 2000 Act.
- 141 Subsection (11) inserts a new Section 419A into the 2000 Act defining claims management services. It also inserts a new Section 419B which enables the Treasury to specify by Order circumstances in which a person is, or is not, carrying on a regulated claims management activity in Great Britain.
- 142 Subsection (12) amends Section 429 to specify that orders made under new Sections 419B and 21(10B) are subject to the affirmative procedure. Subsection (9) also inserts a new subsections (7A) and (7B) which provide that any first order made under section 419A(4) in relation to treating specified benefits as a claim for the purposes of section 419A is subject to the affirmative procedure.
- 143 Subsection (13)(a) clarifies that the power in paragraph 25 of Schedule 2 to the 2000 Act applies to claims management activities as specified under Section 22(1B). This ensures that the Treasury is able to make such consequential, transitional or supplemental provision as it considers appropriate for the purposes of, or connected with, any provision made under the new section 22(1B).
- 144 Subsection (13)(b) amends paragraph 26 of Schedule 2 to the 2000 Act meaning an order made under section 22(1B) is subject to the affirmative procedure.
- 145 Subsection (14) enables the Secretary of State to put into place a transfer scheme for staff, property, assets and liabilities of the Claims Management Regulation Unit to the Financial Conduct Authority and from the Office of Legal Complaints to Financial Ombudsman Service to put into place a similar transfer scheme. This subsection will extend to England and Wales only.
- 146 Subsection (15) introduces the transitional provisions set out in Schedule 5.

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<sup>6</sup> Financial Services and Markets Act 2000 (Regulated Activities) Order 2001:  
<http://www.legislation.gov.uk/uksi/2001/544/contents/made>

#### Schedule 4: Regulation of claims management services: transfer schemes

- 147 Schedule 4 contains general provisions about transfer schemes and will extend to England and Wales only. Part 1 refers to the application of the schedule. Part 2 deals with transfers from the Claims Management Regulation Unit to the Financial Conduct Authority (the regulators) and Part 3 deals with the transfers between the Office of Legal Complaints to the Legal Ombudsman (the complaints bodies).
- 148 Paragraph 1 provides that the Schedule will apply if the Treasury makes an Order under the new Section 22(1B) of the Financial Services and Markets Act 2000 which has the effect of making an activity a regulated activity for the purposes of that Act, i.e. when the Treasury makes an Order making claims management services a regulated activity.
- 149 Paragraph 2 sets out the interpretation provisions for Part 2. Paragraph 3 provides the Secretary of State for Justice a power to make one or more transfer schemes, with the consent of the Financial Conduct Authority, for the transfer of property, staff, rights and liabilities to be transferred to the Financial Conduct Authority.
- 150 Paragraphs 4, 5, 6 and 7 defines what property, rights and liabilities may be the subject of a transfer scheme. Paragraphs 8 and 9 detail the content of a transfer scheme that can be made by the Secretary of State.
- 151 Paragraphs 10, 11 and 12 deal with the modification of a transfer scheme. The Secretary of State can make a modification with the consent of the Financial Conduct Authority, but a modification can only take effect with the agreement of the person affected. A modification can take effect from a day specified by the Secretary of State and that date may be when the original scheme came into effect.
- 152 Paragraphs 13 sets out the interpretation provisions for Part 3. Paragraphs 13, 14 and 15 provide the Office of Legal Complaints with a power to make one or more transfer schemes for the transfer of property, staff, rights and liabilities to be transferred to the Financial Ombudsman Service. Any such scheme must have the consent of the Financial Ombudsman Service and Financial Conduct Authority before it is sent to the Treasury and the Lord Chancellor for approval. A scheme will not come into force unless it is approved.
- 153 Paragraph 16 and 17 gives the Lord Chancellor a power to make a transfer scheme in the event the Office of Legal Complaints fails to do so and the Lord Chancellor deems it necessary. The Lord Chancellor may also, with the approval of the Treasury, the Financial Conduct Authority, the Financial Ombudsman Service and the Office of Legal Complaints, make a transfer scheme for the transfer of property, rights and liabilities of the Office of Legal Complaints to Financial Ombudsman Service.
- 154 Paragraphs 18 and 19 deals with the provision of information and assistance by the Office of Legal Complaints to the Lord Chancellor and the Treasury to enable them to exercise their powers under the Schedule.
- 155 Paragraphs 20, 21 and 22 defines what property, rights and liabilities may be the subject of a transfer scheme. Paragraphs 23 and 24 detail the content of a transfer scheme that can be made by the Secretary of State.

156 Paragraphs 25, 26, 27, 28 and 29 deal with the modification of a transfer scheme. The Office of Legal Complaints may modify a transfer scheme, but a modification can only take effect with the agreement of the person(s) affected. A modification cannot come into effect without the approval of the Treasury, Lord Chancellor, the Financial Conduct Authority and the Financial Ombudsman Service and any such modification must have the consent of the Financial Ombudsman Service before it is submitted for approval. A modification can take effect from a day specified by the Secretary of State and that date may be when the original scheme came into effect.

## Schedule 5: Regulation of claims management services: transitional provision

157 Schedule 5 contains transitional provisions to allow the Financial Conduct Authority to take steps in preparation for the transfer of the regulation of claims management services. Such provisions include extending the Financial Conduct Authority's information gathering powers to obtain information and documents from claims management companies operating in Great Britain if the Financial Conduct Authority considers it needs the information or documentation in preparation for its role as a regulator.

158 It also gives the Financial Conduct Authority the ability to consult on rules made before an order is made and treat rules made by the outgoing regulator as having been made by the Financial Conduct Authority.

159 Schedule 5 also provides for the provision of information from the outgoing regulator and complaints body to the Financial Conduct Authority and the Financial Ombudsman Service before the making of an order regulating claims management activity.

160 Paragraph 1 ensures that Part 11 of the 2000 Act (information gathering and investigations) applies to persons providing regulated claims management services under the Compensation Act 2006 in England or Wales, and to persons in Scotland who would be regulated under the Compensation Act 2006 if providing these services in England and Wales.

## Charges for claims management services

### Section 28: Power of FCA to make rules restricting charges for claims management services

161 This section amends the Financial Services and Markets Act 2000. Subsection (2) inserts a new Section 137FD into Part 9A (Rules and Guidance) of the Act. The new Section gives the Financial Conduct Authority the power to make rules to cap the amount that claims management companies can charge consumers. The Financial Conduct Authority must make rules for services provided in relation to the making of a claim in connection with financial products and services.

162 The rules must be made with a view to securing an appropriate degree of consumer protection against excessive charges claims management companies can charge consumers for its services. Subsection 137FD(5) provides that the rules may provide for agreements to be unenforceable, amounts paid under an agreement to be recovered and compensation to be paid for losses where a consumer has been charged in contravention of rules imposing fee caps.

163 Subsection (3) amends Section 138E(3) of the Act which deals with the limits of the effects of contravening Financial Conduct Authority rules. A transaction or contract which contravenes the rules in relation to charges for claims management services made under Section 137FC will be rendered void or unenforceable.

## Section 29: PPI claims and charges for claims management services: general

- 164 This section inserts general provisions relating to the interim restrictions on charges claims management companies and the relevant legal service providers can make for regulated services provided in connection with PPI claims. Subsection (2) states that the provisions of the section explain the terms used in the successive three sections.
- 165 Subsection (3) sets out the maximum fee cap that applies during the interim period before regulation of claims management services is transferred to the Financial Conduct Authority. This has been set at 20% of the amount recovered for a claimant in satisfaction of their PPI claim. Subsection (4), however, does allow a service provider to recover a reasonable amount without breaching the interim fee cap restriction for work done in the event a claimant cancels their service contract after a cooling off period. Subsection (7) clarifies what is meant by the references to amounts recovered for the claimant.
- 166 The remainder of the subsections (i.e. (5), (6), (8), (9), (10), (11), (12) and (13)) sets out the relevant definition and meaning of the terms used.

## Section 30: PPI claims: interim restriction on charges before transfer of regulation to FCA

- 167 This section deals with the application and enforcement of the fee cap before the transfer of regulation of claims management services to the Financial Conduct Authority. It makes provision to apply the cap to services in relation to PPI claims provided by-
- a. those authorised to provide regulated claims management services under the Compensation Act 2006; and
  - b. legal services providers
- 168 Subsection (1) sets out the general prohibition that a regulated person must not charge a claimant, or enter into an agreement that would require a claimant to pay, for regulated services an amount that exceeds the interim fee cap.
- 169 Whilst a breach of subsection (1) is not a breach of statutory duty, under subsection (2) where a breach has occurred a claimant is entitled to recover any payment in excess of the cap and any provision(s) in an agreement to pay in excess of the fee cap unenforceable.
- 170 Subsection (4) imposes a duty on the relevant regulators to ensure they have appropriate arrangements for monitoring and enforcing the fee cap prohibitions and a power to them to make rules for the purpose of doing so, if required.
- 171 Subsections (5), (6) and (7) deal with the meaning of “regulated person”, “relevant regulator”, “regulator” and “reserved legal activity”.
- 172 Subsection (8) states that the prohibition under this Section will only apply to charges imposed, or to agreements that provide for the payment of charges, during the ‘first interim period’. The ‘first interim period’ is defined in subsection (9) and will begin on the day on which the section comes into force until claims management activity becomes a regulated activity and thus regulated by the Financial Conduct Authority.

## Section 31: PPI claims: interim restriction on charges imposed by authorised persons after transfer of regulation to FCA

- 173 This section deals with the application and enforcement of the interim fee cap by the Financial Conduct Authority after the transfer of regulation. Subsection (1) specifies that the prohibition that a person must not charge a claimant, or enter into an agreement that would require a claimant to pay, an amount that exceeds the fee cap (as set out in subsection (2)) is to be treated as a rule made by the Financial Conduct Authority and any functions conferred on the Financial Conduct Authority that apply in relation to general rules (such as section 1A(6) of, and Schedule 1ZA to, the Financial Services and Markets Act) also apply to that rule.
- 174 Whilst a breach of subsection (2) is not a breach of statutory duty, under subsection (3) where a breach has occurred a claimant is entitled to recover any payment in excess of the cap and any provision(s) in an agreement to pay in excess of the fee cap unenforceable.
- 175 Subsection (4) states that the prohibition under this Section will only apply to charges imposed, or to agreements that provide for the payment of charges, from the point from which claims management activity becomes a regulated activity (and thus regulated by the Financial Conduct Authority) until the coming into force of rules made by the Financial Conduct Authority by virtue of Section 21(2) of this Act.
- 176 Subsection (5) states that the prohibition under this Section will only apply to charges imposed, or to agreements that provide for the payment of charges, during the period after the Financial Conduct Authority takes over regulation and ending when the Financial Conduct Authority have made their own rules under the new s137FD(1). This is known as the 'second interim period' and defined in subsections (6) and (7).

## Section 32: PPI claims: interim restriction on charges imposed by legal practitioners after transfer of regulation to FCA

- 177 This section requires the Law Society of England and Wales, the General Council of the Bar and the Chartered Institute of Legal Executives, after the transfer of regulation from the Claims Management Regulator to the Financial Conduct Authority, to enforce the interim fee cap in respect of charges imposed by those they regulate for certain claims management services provided in connection with a PPI claim. This section is necessary because the Financial Conduct Authority will not be regulating charges imposed by those regulated by the aforementioned bodies.
- 178 Subsection (1) sets out the general prohibition: a legal practitioner must not charge a claimant, or enter into an agreement that would require a claimant to pay, for relevant claims management activity provided in connection with a PPI claim, an amount that exceeds the interim fee cap. Relevant claims management activity means claims management activity which would be regulated by the Financial Conduct Authority if carried out by a non-lawyer, but does not include any services which are reserved legal activities (such as exercising a right of audience or conducting litigation).
- 179 Subsection (2) applies subsections (2) to (5) and (7) of section 30. Although any breach of subsection (1) would not be actionable as a breach of statutory duty, where a breach has occurred, a claimant is entitled to recover any payment in excess of the cap and any provision(s) in an agreement to pay in excess of the fee cap would be unenforceable. The duty on the relevant regulators under section (30)(4) to ensure that they have appropriate arrangements for monitoring and enforcing the interim fee cap and the power enabling them to make rules for the purpose of doing so, if required, apply for the purposes of this section.



- 180 Subsections (5) and (7) of section (30) which deal with the meaning of “regulated person”, “relevant regulator” and “reserved legal activity” also apply to this section except that the references to “regulated claims management services” and “regulated persons” should be substituted as references to “regulated claims management activity” and “legal practitioners” respectively.
- 181 These provisions will apply once the transfer of claims management services regulation to the Financial Conduct Authority has taken place, and will last, in the case of legal practitioners for whom the relevant regulator is the Law Society of England and Wales, until the Law Society’s rules on fee capping made under section (33) come into force, and in the case of the other two regulators, 29 April 2020.

### Section 33: Legal services regulators’ rules: charges for claims management services

- 182 This section gives the Law Society of England and Wales, the General Council of the Bar and the Chartered Institute of Legal Executives a power to make rules to cap the amount that legal service providers can charge in connection with relevant claims management activities. The Law Society of England and Wales has a duty to make such rules in relation to relevant claims management activity which concern claims in relation to financial products or services.
- 183 In subsection (3) the Law Society of Scotland is given a similar power to make rules to cap the amount that those it regulates can charge in relation to a relevant claims management activity, but only in cases where the claim relates to a financial product or service.
- 184 The rules must be made with a view to securing an appropriate degree of protection against excessive charges. However, the rules cannot specify charges for a ‘reserved legal activity’ within the meaning of the Legal Services Act 2007 or for the exercise of the right of audience or conduct of litigation by a Scottish legal practitioner.
- 185 Subsection (10) provides that in relation to agreements entered into, or charges imposed, in contravention of the rules, the rules may provide for such agreements or obligations to pay the charge to be unenforceable, amounts paid under an agreement to be recovered and compensation to be paid for any losses incurred.
- 186 This new section does not limit any existing power of the Law Society of England and Wales, the Law Society of Scotland, the General Council of the Bar or the Chartered Institute of Legal Executives to make rules.

### Section 34: Extension of power of the Law Society of Scotland to make rules

- 187 This section confers a power on the Treasury to amend section (33) in order to extend the power of the Law Society of Scotland to make rules imposing a cap on fees charged for claims management services. It provides that the power given to the Law Society of Scotland to make rules in relation to fees charged for claims management services provided in connection with a claim concerning a financial product or service may be extended to apply in relation to claims management services provided in relation to all, or any description of, claim.
- 188 Subsection (2) requires the Treasury to obtain the consent of the Scottish Ministers before making regulations under subsection (1). The consent requirement included in this section is in recognition of the Scottish Government’s interest in the Scottish legal profession. However, the Government’s view remains that the regulation of claims management services is reserved.
- 189 Subsections (3) and (4) deal with how regulations are to be made and approved by the affirmative procedure in Parliament.

## Cold calling about claims management services

### Section 35: Cold calling about claims management services

- 190 This section amends the Privacy and Electronic Communications (EC Directive) Regulations 2003<sup>7</sup>. Subsection (3) inserts new regulation 21A which prohibits live unsolicited calls for the purposes of direct marketing in relation to claims management services except where the person called has given prior consent to receiving such calls.
- 191 Claims management services are defined in regulation 21A(4) and (5). This definition would capture not only legal representation but also where any person is acting on behalf of, or representing, a claimant. This is to ensure that calls by persons instructed to seek out potential claimants regardless of whether or not they will be represented by legal professionals or other types of advocate are captured.

## Part 3: General

### Section 36: Extent

- 192 This section is self-explanatory.

### Section 37: Commencement

- 193 This section is self-explanatory.

### Section 38: Short Title

- 194 This section is self-explanatory.

## Financial implications of the Act

- 195 A summary of the financial effects of the measures of the Act is provided below. Further detail is provided in the impact assessments.

### Single Financial Guidance Body

- 196 The creation of the single financial guidance body will have a negligible impact on public expenditure. The transition between three services to the single financial guidance body will create short-term costs, which are provisionally anticipated to total £4.49m, excluding costs arising from digital transition and from redundancy, which have not been estimated.
- 197 Subject to legislative changes, these transitional costs will be met by the financial services and general levies which currently fund the existing services.
- 198 The financial implications of cold-calling and the debt respite scheme are not yet known. Impact assessments will be written and published on the Act's website in due course.

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<sup>7</sup> S.I. 2003/2426

## Claims Management Company Regulation

- 199 The measures effecting the transfer of claims management company regulation to Financial Conduct Authority will have a minimal effect on public expenditure, as it is intended that all costs arising as a result of the transfer will be borne by the claims management company market. The provisions relating to fee restrictions will also result in a cost to industry, however the equivalent benefit will be felt by consumers.

## Compatibility with the European Convention on Human Rights

- 200 Section 19 of the Human Rights Act 1998 required the Minister in charge of the Act in either House of Parliament to make a statement about the compatibility of the provisions of the Act with the Convention rights (as defined in section 1 of that Act).
- 201 In the opinion of the Secretary of State for Work and Pensions, Esther McVey MP, the provisions of the Act are compatible with the Convention rights and she has made a statement to that effect.

## Related documents

- 202 The following documents are relevant to the Act:

- Delegated Powers Memoranda
- Speaker's certification in respect of English Votes for English Laws
- Amendment papers
- Select Committee reports
- Written evidence (Commons Public Bill Committee stage)
- Impact Assessments
- Legislative Consent Resolutions

- 203 All these documents can be found at:

<https://services.parliament.uk/Bills/2017-19/financialguidanceandclaims/documents.html>

## Annex A - Territorial extent and application in the United Kingdom

204 The table below sets out the extent and application of the Act<sup>8</sup>.

Provision	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
<b>1. Financial Guidance</b>				
Sections 1 & 2	Yes	Yes	Yes	Yes
Section 3	Yes	In part	In part	In part
Sections 4 & 5	Yes	Yes	Yes	Yes
Sections 6 & 7	Yes	Yes	No	Yes
Sections 8 to 11	Yes	Yes	Yes	Yes
Section 12	In part	In part	In part	In part
Sections 13 to 18	Yes	Yes	Yes	Yes
Section 19	In part	In part	In part	In part
Sections 20 to 26	Yes	Yes	Yes	Yes
<b>2. Claims management services</b>				
Section 27	Yes	Yes	In part	No
Sections 28 & 29	Yes	Yes	Yes	No
Section 30	Yes	Yes	No	No
Section 31	Yes	Yes	Yes	No
Section 32	Yes	Yes	No	No
Sections 33 & 34	Yes	Yes	Yes	No
Section 35	Yes	Yes	Yes	Yes
<b>3. General</b>				
Sections 36 to 38	Yes	Yes	Yes	Yes
<b>4. Schedules</b>				

<sup>8</sup> References in this Annex to a provision being within the legislative competence of the Scottish Parliament, the National Assembly for Wales or the Northern Ireland Assembly are to the provision being within the legislative competence of the relevant devolved legislature for the purposes of Standing Order No. 83J of the Standing Orders of the House of Commons relating to Public Business.

*These Explanatory Notes relate to the Financial Guidance And Claims Act 2018 (c. 10) which received Royal Assent on 10 May 2018*

Schedules 1 & 2	Yes	Yes	Yes	Yes
Schedule 3	Yes	Yes	Yes	In part
Schedule 4	Yes	Yes	No	No
Schedule 5	Yes	Yes	Yes	No

*These Explanatory Notes relate to the Financial Guidance And Claims Act 2018 (c. 10) which received Royal Assent on 10 May 2018*

## Annex B - Hansard References

205 The following table sets out the dates and Hansard references for each stage of the Act's passage through Parliament.

Stage	Date	Hansard Reference
<b>House of Lords</b>		
Introduction	22 June 2017	Vol. 783 <a href="http://hansard.parliament.uk/lords/2017-06-22/debates">hansard.parliament.uk/lords/2017-06-22/debates</a>
Second Reading	05 July 2017	Vol. 783 Col.904 <a href="http://hansard.parliament.uk/lords/2017-07-05/debates">hansard.parliament.uk/lords/2017-07-05/debates</a>
Public Bill Committee	19 July 2017	Vol. 783 Col. 1643 <a href="http://hansard.parliament.uk/Lords/2017-07-19/debates">hansard.parliament.uk/Lords/2017-07-19/debates</a>
	06 September 2017	Vol. 783 Col. 1975; Vol. 783 Col. 2040 <a href="http://hansard.parliament.uk/Lords/2017-09-06/debates">hansard.parliament.uk/Lords/2017-09-06/debates</a> <a href="http://hansard.parliament.uk/Lords/2017-09-06/debates">hansard.parliament.uk/Lords/2017-09-06/debates</a>
	11 September 2017	Vol. 783 Col. 2263 <a href="http://hansard.parliament.uk/lords/2017-09-11/debates">hansard.parliament.uk/lords/2017-09-11/debates</a>
	13 September 2017	Vol. 783 Col. 2457 <a href="http://hansard.parliament.uk/lords/2017-09-13/debates">hansard.parliament.uk/lords/2017-09-13/debates</a>
Report	24 October 2017	Vol. 785 Col. 849; Vol. 785 Col. 912 <a href="http://hansard.parliament.uk/lords/2017-10-24/debates">hansard.parliament.uk/lords/2017-10-24/debates</a> <a href="http://hansard.parliament.uk/lords/2017-10-24/debates">hansard.parliament.uk/lords/2017-10-24/debates</a>
	31 October 2017	Vol. 785 Col. 1284 <a href="http://hansard.parliament.uk/lords/2017-10-31/debates">hansard.parliament.uk/lords/2017-10-31/debates</a>
Third Reading	21 November 2017	Vol. 787 Col. 79 <a href="http://hansard.parliament.uk/lords/2017-11-21/debates">hansard.parliament.uk/lords/2017-11-21/debates</a>
<b>House of Commons</b>		
Introduction	22 November 2017	No debate / no Hansard reference
Second Reading	22 January 2018	Vol. 635 Col. 37 <a href="http://hansard.parliament.uk/commons/2018-01-22/debates">hansard.parliament.uk/commons/2018-01-22/debates</a>
Grand Committee	01 February 2018	Col 1; Col 29 <a href="http://hansard.parliament.uk/commons/2018-02-01/debates">hansard.parliament.uk/commons/2018-02-01/debates</a> <a href="http://hansard.parliament.uk/commons/2018-02-01/debates">hansard.parliament.uk/commons/2018-02-01/debates</a>
	06 February 2018	Col 65 <a href="http://hansard.parliament.uk/commons/2018-02-06/debates">hansard.parliament.uk/commons/2018-02-06/debates</a>
Report and Third Reading	24 April 2018	Vol. 639 Col. 778 <a href="http://hansard.parliament.uk/commons/2018-04-24/debates">hansard.parliament.uk/commons/2018-04-24/debates</a>

*These Explanatory Notes relate to the Financial Guidance And Claims Act 2018 (c. 10) which received Royal Assent on 10 May 2018*

<b>Stage</b>	<b>Date</b>	<b>Hansard Reference</b>
<b>Lords Consideration of Commons Amendments</b>	01 May 2018	Vol. 790 Col. 1995 <a href="https://hansard.parliament.uk/lords/2018-05-01/debates">hansard.parliament.uk/lords/2018-05-01/debates</a>
<b>Royal Assent</b>	10 May 2018	House of Commons Vol. 640 Col. 893 <a href="https://hansard.parliament.uk/Commons/2018-05-10/debates">hansard.parliament.uk/Commons/2018-05-10/debates</a>
		House of Lords Vol. 791 Col. 245 <a href="https://hansard.parliament.uk/lords/2018-05-10/debates">hansard.parliament.uk/lords/2018-05-10/debates</a>

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## Annex C - Progress of Bill Table

206 This Annex shows how each section and Schedule of the Act was numbered during the passage of the Bill through Parliament.

Section of the Act	Bill as Introduced in the Lords	Bill as amended on Report in the Lords	Bill as introduced in the Commons	Bill as amended in Committee in the Commons	Bill as amended on Report in the Commons
Section 1	Clause 1	Clause 1	Clause 1	Clause 1	Clause 1
Section 2	Clause 2	Clause 2	Clause 2	Clause 2	Clause 2
Section 3	Clause 2	Clause 2	Clause 3	Clause 3	Clause 3
Section 4	Clause 3	Clause 3	Clause 5	Clause 5	Clause 4
Section 5	Clause 4	Clause 4	Clause 6	Clause 6	Clause 5
Section 6			Clause 7	Clause 7	Clause 6
Section 7			Clause 8	Clause 8	Clause 7
Section 8	Clause 5	Clause 5	Clause 9	Clause 9	Clause 8
Section 9	Clause 6	Clause 6	Clause 10	Clause 10	Clause 9
Section 10	Clause 7	Clause 7	Clause 11	Clause 11	Clause 10
Section 11	Clause 8	Clause 8	Clause 12	Clause 12	Clause 11
Section 12	Clause 9	Clause 9	Clause 13	Clause 13	Clause 12
Section 13	Clause 10	Clause 10	Clause 14	Clause 14	Clause 13
Section 14	Clause 11	Clause 11	Clause 15	Clause 15	Clause 14
Section 15		Clause 12	Clause 16	Clause 16	Clause 15
Section 16		Clause 13	Clause 17	Clause 17	Clause 16
Section 17	Clause 12	Clause 14	Clause 18	Clause 18	Clause 17
Section 18				Clause 19	Clause 18
Section 19				Clause 20	Clause 19
Section 20		Clause 15	Clause 19	Clause 21	Clause 20
Section 21					Clause 21
Section 22					Clause 22
Section 23	Clause 14	Clause 17	Clause 21	Clause 23	Clause 23
Section 24		Clause 18	Clause 22	Clause 24	Clause 24
Section 25	Clause 13	Clause 16	Clause 20	Clause 22	Clause 25
Section 26	Clause 15	Clause 19	Clause 23	Clause 25	Clause 26
Section 27	Clause 16	Clause 20	Clause 24	Clause 26	Clause 27
Section 28	Clause 17	Clause 21	Clause 25	Clause 27	Clause 28
Section 29			Clause 26	Clause 28	Clause 29
Section 30			Clause 27	Clause 29	Clause 30

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<b>Section of the Act</b>	<b>Bill as Introduced in the Lords</b>	<b>Bill as amended on Report in the Lords</b>	<b>Bill as introduced in the Commons</b>	<b>Bill as amended in Committee in the Commons</b>	<b>Bill as amended on Report in the Commons</b>
Section 31			Clause 28	Clause 30	Clause 31
Section 32				Clause 31	Clause 32
Section 33				Clause 32	Clause 33
Section 34				Clause 33	Clause 34
Section 35				Clause 34	Clause 35
Section 36	Clause 18	Clause 22	Clause 29	Clause 35	Clause 36
Section 37	Clause 19	Clause 23	Clause 30	Clause 36	Clause 37
Section 38	Clause 20	Clause 24	Clause 31	Clause 37	Clause 38
Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1	Schedule 1
Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2	Schedule 2
Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3	Schedule 3
Schedule 4	Schedule 4	Schedule 4	Schedule 4	Schedule 4	Schedule 4
Schedule 5	Schedule 5	Schedule 5	Schedule 5	Schedule 5	Schedule 5

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