



# Financial Guidance and Claims Act 2018

## 2018 CHAPTER 10

### PART 2

#### CLAIMS MANAGEMENT SERVICES

##### *Charges for claims management services*

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

- (1) The Financial Services and Markets Act 2000 is amended as set out in subsections (2) and (3).
- (2) After section 137FC (inserted by section 20) insert—

##### **“137FD FCA general rules: charges for claims management services**

- (1) The power of the FCA to make general rules includes power to make rules prohibiting authorised persons from—
  - (a) entering into a specified regulated claims management agreement that provides for the payment by a person of charges which, taken with charges payable under an agreement treated by the rules as being connected with the regulated claims management agreement (if any), are specified charges, and
  - (b) imposing specified charges on a person in connection with the provision of a service which is, or which is provided in connection with, a specified regulated claims management activity.
- (2) The FCA must make rules by virtue of subsection (1) in relation to all regulated claims management agreements, and all regulated claims management activities, which concern claims in relation to financial products or services.

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*Status: This is the original version (as it was originally enacted).*

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- (3) The rules must be made with a view to securing an appropriate degree of protection against excessive charges for the provision of a service which is, or which is provided in connection with, a regulated claims management activity.
  - (4) The rules may specify charges by reference to charges of a specified class or description, or by reference to charges which exceed, or are capable of exceeding, a specified amount.
  - (5) In relation to an agreement entered into, or charge imposed, in contravention of the rules, the rules may (amongst other things)—
    - (a) provide for the agreement, or obligation to pay the charge, to be unenforceable or unenforceable to a specified extent;
    - (b) provide for the recovery of amounts paid under the agreement or obligation;
    - (c) provide for the payment of compensation for any losses incurred as a result of paying amounts under the agreement or obligation.
  - (6) The provision that may be made under subsection (5) includes provision corresponding to that made by section 30 (enforceability of agreements resulting from unlawful communications).
  - (7) In this section—
    - (a) “regulated claims management agreement” means an agreement, the entering into or performing of which by either party is a regulated claims management activity, and
    - (b) “specified” means specified in the rules, but “specified amount” means an amount specified in or determined in accordance with the rules.”
- (3) In section 138E(3) (contravention of rules which may make transaction void or unenforceable)—
- (a) omit the “or” at the end of paragraph (b), and
  - (b) at the end of paragraph (c) insert “or
    - (d) rules made by the FCA under section 137FD.”