

Financial Guidance and Claims Bill [HL]

REVISED
FOURTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 13th July 2017, as follows –

| | |
|-------------------|-------------------|
| Clause 1 | Clauses 14 to 16 |
| Schedules 1 and 2 | Schedules 4 and 5 |
| Clauses 2 to 13 | Clauses 17 to 20 |
| Schedule 3 | Title. |

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 16

LORD HUNT OF WIRRAL

69A Page 12, line 38, at end insert –
“(ba) arranging the provision of temporary replacement motor vehicles,”

69B Page 12, line 38, at end insert –
“(bb) commissioning the obtaining of medical evidence for personal injuries, within the meaning of the Civil Procedure Rules 1998,”

After Clause 16

LORD HOLMES OF RICHMOND
BARONESS MEACHER
BARONESS GREENGROSS

70 Insert the following new Clause –
“Regulatory principles to be applied in respect of claims management services
(1) In relation to the regulation of claims management services, the FCA must act according to the principles that –

After Clause 16 - continued

- (a) where appropriate, authorised persons should act honestly, fairly and professionally in accordance with the best interests of consumers who are their clients; and
 - (b) where appropriate, authorised persons should manage conflicts of interest fairly, both between themselves and their clients, and between clients.
- (2) In this section, “authorised person” has the same meaning as in the Financial Services and Markets Act 2000, and “authorised persons” shall be construed accordingly.”

Clause 17

BARONESS ALTMANN

70ZZA★ Page 14, line 29, at end insert –

“(1A) The power of the FCA to make general rules includes the power to make rules that the losing defendant to any claim brought by a claims management company shall, subject to subsection (2), be liable for any charges payable under or in connection with a regulated claims management agreement.”

BARONESS MEACHER
BARONESS GREENGROSS**70ZA** Page 14, line 30, after “subsection (1)” insert “by the end of the period of two months beginning with the day on which this Act is passed”

LORD HUNT OF WIRRAL

70A Page 14, line 33, at end insert “, and claims for personal injuries, within the meaning of the Civil Procedure Rules 1998.”**70B★** Page 14, line 40, at end insert –

“(4A) The rules may set a specified amount of zero where an alternative method of claim is available to the claimant free of charge, unless the authorised person can show that –

- (a) proper information as to that alternative method has been provided to the claimant; and
- (b) the claimant has had a reasonable opportunity to consider the information.”

THE EARL OF KINNOULL

71 Page 15, line 6, at end insert –

“(6A) The FCA must provide reasonable assistance in the interpretation of the rules under this section for those providing claims management services.”

After Clause 17

LORD SHARKEY
BARONESS KRAMER

72 Insert the following new Clause—

“Ban on unsolicited direct approaches by, on behalf of, or for the benefit of, companies carrying out claims management services

The FCA must, within the period of six months beginning with the day on which this Act comes into force, introduce a ban on unsolicited direct approaches to members of the public carried out by whatever means, including digital, by, on behalf of, or for the benefit of, companies carrying out claims management services.”

BARONESS ALTMANN
THE EARL OF KINNOULL

73 Insert the following new Clause—

“Prohibition on making unsolicited approaches for claims

(1) A person must—

- (a) not use, nor instigate the use of a public electronic communications service for the purpose of making unsolicited telephone calls for direct marketing; and
- (b) not transmit, nor instigate the transmission of, unsolicited communications for the purpose of direct marketing by means of electronic mail or otherwise,

where—

- (i) the person making or instigating the call or transmitting or instigating the use of electronic mail is acting on behalf of a claims management service, or does so with a view to providing information to a claims management service, and
- (ii) the purpose of the call or the electronic mail is to engage a consumer in commencing a claim.

(2) In this section—

“call” means a connection established by means of a telephone service available to the public allowing two-way communication in real time;

“claim” means proceedings in which there is a claim for damages or compensation;

“claims management service” has the meaning given by section 419A of the Financial Services and Markets Act 2000;

“direct marketing” has the meaning given by section 11(3) of the Data Protection Act 1998;

“electronic mail” means any text, voice, sound or image message sent over a public electronic communications network which can be stored in the network or in the recipient’s terminal equipment until it is collected by the recipient and includes messages sent using a short message service;

“public electronic communications service” has the meaning given by section 151 of the Communications Act 2003;

After Clause 17 - continued

“unsolicited” means an approach which has not been specifically requested, even if a person has asked to receive marketing information.”

Clause 18

THE EARL OF KINNOULL

74 Page 15, line 27, at end insert “and Scotland.”

Clause 19

LORD MCKENZIE OF LUTON

LORD STEVENSON OF BALMACARA

75 Page 16, line 2, at end insert –

“() The Secretary of State must make regulations under this section relating to the commencement of sections 1 to 7 within the period of 18 months beginning with the day on which this Act is passed.”

THE EARL OF KINNOULL

76 Page 16, line 12, at end insert –

“() the Scottish Ministers, in relation to Part 2 as it applies in Scotland.”

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12 September 2017
