



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVI

THE OMBUDSMAN SCHEME

Modifications etc. (not altering text)

- C1** Pt. 16 applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2), **125** (with reg. 3)
- C2** Pt. 16 applied (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), **reg. 76(2)** (with reg. 3)

The scheme

225 The scheme and the scheme operator.

- (1) This Part provides for a scheme under which certain disputes may be resolved quickly and with minimum formality by an independent person.
- (2) The scheme is to be administered by a body corporate (“the scheme operator”).
- (3) The scheme is to be operated under a name chosen by the scheme operator but is referred to in this Act as “the ombudsman scheme”.
- (4) Schedule 17 makes provision in connection with the ombudsman scheme and the scheme operator.

226 Compulsory jurisdiction.

- (1) A complaint which relates to an act or omission of a person (“the respondent”) in carrying on an activity to which compulsory jurisdiction rules apply is to be dealt with under the ombudsman scheme if the conditions mentioned in subsection (2) are satisfied.

Status: Point in time view as at 01/01/2006. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: Financial Services and Markets Act 2000, Part XVI is up to date with all changes known to be in force on or before 13 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The conditions are that—
- (a) the complainant is eligible and wishes to have the complaint dealt with under the scheme;
 - (b) the respondent was an authorised person at the time of the act or omission to which the complaint relates; and
 - (c) the act or omission to which the complaint relates occurred at a time when compulsory jurisdiction rules were in force in relation to the activity in question.
- (3) “Compulsory jurisdiction rules” means rules—
- (a) made by the Authority for the purposes of this section; and
 - (b) specifying the activities to which they apply.
- (4) Only activities which are regulated activities, or which could be made regulated activities by an order under section 22, may be specified.
- (5) Activities may be specified by reference to specified categories (however described).
- (6) A complainant is eligible, in relation to the compulsory jurisdiction of the ombudsman scheme, if he falls within a class of person specified in the rules as eligible.
- (7) The rules—
- (a) may include provision for persons other than individuals to be eligible; but
 - (b) may not provide for authorised persons to be eligible except in specified circumstances or in relation to complaints of a specified kind.
- (8) The jurisdiction of the scheme which results from this section is referred to in this Act as the “compulsory jurisdiction”.

Modifications etc. (not altering text)

- C3** S. 226 extended (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1), 3(1)**; S.I. 2001/3538, **art. 2(1)**
- C4** S. 226(2) excluded (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1), 2(4)**; S.I. 2001/3538, **art. 2(1)**

Commencement Information

- I1** S. 226 wholly in force at 1.12.2001; s. 226 not in force at Royal Assent see s. 431(2); s. 226 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 226 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

VALID FROM 16/06/2006

^{F1} **Consumer credit jurisdiction**

^{F1} **226A** (1) A complaint which relates to an act or omission of a person (“the respondent”) is to be dealt with under the ombudsman scheme if the conditions mentioned in subsection (2) are satisfied.

(2) The conditions are that—

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- (a) the complainant is eligible and wishes to have the complaint dealt with under the scheme;
 - (b) the complaint falls within a description specified in consumer credit rules;
 - (c) at the time of the act or omission the respondent was the licensee under a standard licence or was authorised to carry on an activity by virtue of section 34A of the Consumer Credit Act 1974;
 - (d) the act or omission occurred in the course of a business being carried on by the respondent which was of a type mentioned in subsection (3);
 - (e) at the time of the act or omission that type of business was specified in an order made by the Secretary of State; and
 - (f) the complaint cannot be dealt with under the compulsory jurisdiction.
- (3) The types of business referred to in subsection (2)(d) are—
- (a) a consumer credit business;
 - (b) a consumer hire business;
 - (c) a business so far as it comprises or relates to credit brokerage;
 - (d) a business so far as it comprises or relates to debt-adjusting;
 - (e) a business so far as it comprises or relates to debt-counselling;
 - (f) a business so far as it comprises or relates to debt-collecting;
 - (g) a business so far as it comprises or relates to debt administration;
 - (h) a business so far as it comprises or relates to the provision of credit information services;
 - (i) a business so far as it comprises or relates to the operation of a credit reference agency.
- (4) A complainant is eligible if—
- (a) he is—
 - (i) an individual; or
 - (ii) a surety in relation to a security provided to the respondent in connection with the business mentioned in subsection (2)(d); and
 - (b) he falls within a class of person specified in consumer credit rules.
- (5) The approval of the Treasury is required for an order under subsection (2)(e).
- (6) The jurisdiction of the scheme which results from this section is referred to in this Act as the “consumer credit jurisdiction”.
- (7) In this Act “consumer credit rules” means rules made by the scheme operator with the approval of the Authority for the purposes of the consumer credit jurisdiction.
- (8) Consumer credit rules under this section may make different provision for different cases.
- (9) Expressions used in the Consumer Credit Act 1974 have the same meaning in this section as they have in that Act.]]

Textual Amendments

- F1** S. 226A inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 59(1), 71(2)** (with [Sch. 3 para. 29](#)); [S.I. 2006/1508](#), **art. 3(1)**, [Sch. 1](#)

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227 Voluntary jurisdiction.

- (1) A complaint which relates to an act or omission of a person (“the respondent”) in carrying on an activity to which voluntary jurisdiction rules apply is to be dealt with under the ombudsman scheme if the conditions mentioned in subsection (2) are satisfied.
- (2) The conditions are that—
 - (a) the complainant is eligible and wishes to have the complaint dealt with under the scheme;
 - (b) at the time of the act or omission to which the complaint relates, the respondent was participating in the scheme;
 - (c) at the time when the complaint is referred under the scheme, the respondent has not withdrawn from the scheme in accordance with its provisions;
 - (d) the act or omission to which the complaint relates occurred at a time when voluntary jurisdiction rules were in force in relation to the activity in question; and
 - (e) the complaint cannot be dealt with under the compulsory jurisdiction.
- (3) “Voluntary jurisdiction rules” means rules—
 - (a) made by the scheme operator for the purposes of this section; and
 - (b) specifying the activities to which they apply.
- (4) The only activities which may be specified in the rules are activities which are, or could be, specified in compulsory jurisdiction rules.
- (5) Activities may be specified by reference to specified categories (however described).
- (6) The rules require the Authority’s approval.
- (7) A complainant is eligible, in relation to the voluntary jurisdiction of the ombudsman scheme, if he falls within a class of person specified in the rules as eligible.
- (8) The rules may include provision for persons other than individuals to be eligible.
- (9) A person qualifies for participation in the ombudsman scheme if he falls within a class of person specified in the rules in relation to the activity in question.
- (10) Provision may be made in the rules for persons other than authorised persons to participate in the ombudsman scheme.
- (11) The rules may make different provision in relation to complaints arising from different activities.
- (12) The jurisdiction of the scheme which results from this section is referred to in this Act as the “voluntary jurisdiction”.
- (13) In such circumstances as may be specified in voluntary jurisdiction rules, a complaint—
 - (a) which relates to an act or omission occurring at a time before the rules came into force, and
 - (b) which could have been dealt with under a scheme which has to any extent been replaced by the voluntary jurisdiction,
 is to be dealt with under the ombudsman scheme even though paragraph (b) or (d) of subsection (2) would otherwise prevent that.

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- (14) In such circumstances as may be specified in voluntary jurisdiction rules, a complaint is to be dealt with under the ombudsman scheme even though—
- (a) paragraph (b) or (d) of subsection (2) would otherwise prevent that, and
 - (b) the complaint is not brought within the scheme as a result of subsection (13), but only if the respondent has agreed that complaints of that kind were to be dealt with under the scheme.

Commencement Information

- I2** S. 227 wholly in force at 1.12.2001; s. 227 not in force at Royal Assent see s. 431(2); s. 227 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 227 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, art. 2(1)

Determination of complaints

228 Determination under the compulsory jurisdiction.

- (1) This section applies only in relation to the compulsory jurisdiction.
- (2) A complaint is to be determined by reference to what is, in the opinion of the ombudsman, fair and reasonable in all the circumstances of the case.
- (3) When the ombudsman has determined a complaint he must give a written statement of his determination to the respondent and to the complainant.
- (4) The statement must—
 - (a) give the ombudsman's reasons for his determination;
 - (b) be signed by him; and
 - (c) require the complainant to notify him in writing, before a date specified in the statement, whether he accepts or rejects the determination.
- (5) If the complainant notifies the ombudsman that he accepts the determination, it is binding on the respondent and the complainant and final.
- (6) If, by the specified date, the complainant has not notified the ombudsman of his acceptance or rejection of the determination he is to be treated as having rejected it.
- (7) The ombudsman must notify the respondent of the outcome.
- (8) A copy of the determination on which appears a certificate signed by an ombudsman is evidence (or in Scotland sufficient evidence) that the determination was made under the scheme.
- (9) Such a certificate purporting to be signed by an ombudsman is to be taken to have been duly signed unless the contrary is shown.

Modifications etc. (not altering text)

- C5** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004](#) (S.I. 2004/454), arts. 1(2), 5
- C6** S. 228 applied (1.12.2001) by S.I. 2001/2326, arts. 1(1)(b), 6(11), 7(1); S.I. 2001/3538, art. 2(1)

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- C7** S. 228(2) excluded (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b), 6(1)(a)**; S.I. 2001/3538, **art. 2(1)**
- C8** S. 228(4)(c)(5)-(7) excluded (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b), 6(7)(8)(9)**; S.I. 2001/3538, **art. 2(1)**

229 Awards.

- (1) This section applies only in relation to the compulsory jurisdiction.
- (2) If a complaint which has been dealt with under the scheme is determined in favour of the complainant, the determination may include—
 - (a) an award against the respondent of such amount as the ombudsman considers fair compensation for loss or damage (of a kind falling within subsection (3)) suffered by the complainant (“a money award”);
 - (b) a direction that the respondent take such steps in relation to the complainant as the ombudsman considers just and appropriate (whether or not a court could order those steps to be taken).
- (3) A money award may compensate for—
 - (a) financial loss; or
 - (b) any other loss, or any damage, of a specified kind.
- (4) The Authority may specify the maximum amount which may be regarded as fair compensation for a particular kind of loss or damage specified under subsection (3)(b).
- (5) A money award may not exceed the monetary limit; but the ombudsman may, if he considers that fair compensation requires payment of a larger amount, recommend that the respondent pay the complainant the balance.
- (6) The monetary limit is such amount as may be specified.
- (7) Different amounts may be specified in relation to different kinds of complaint.
- (8) A money award—
 - (a) may provide for the amount payable under the award to bear interest at a rate and as from a date specified in the award; and
 - (b) is enforceable by the complainant in accordance with Part III of Schedule 17.
- (9) Compliance with a direction under subsection (2)(b)—
 - (a) is enforceable by an injunction; or
 - (b) in Scotland, is enforceable by an order under section 45 of the ^{M1}Court of Session Act 1988.
- (10) Only the complainant may bring proceedings for an injunction or proceedings for an order.
- (11) “Specified” means specified in compulsory jurisdiction rules.

Modifications etc. (not altering text)

- C9** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), **arts. 1(2), 5**
- C10** S. 229 applied (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b), 7(1)**; S.I. 2001/3538, **art. 2(1)**
S. 229 restricted (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b), 6(1)(b)(4)(5)**; S.I. 2001/3538, **art. 2(1)**

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- C11** S. 229(8)(b) applied (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b)**, 6(4); S.I. 2001/3538, **art. 2(1)**
C12 S. 229(9)(10) applied (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b)**, 6(5); S.I. 2001/3538, **art. 2(1)**

Commencement Information

- I3** S. 229 wholly in force at 1.12.2001; s. 229 not in force at Royal Assent see s. 431(2); s. 229 in force for specified purposes at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**; s. 229 in force in so far as not already in force at 1.12.2001 by S.I. 2001/3538, **art. 2(1)**

Marginal Citations

- M1** 1988 c. 36.

230 Costs.

- (1) The scheme operator may by rules (“costs rules”) provide for an ombudsman to have power, on determining a complaint under the compulsory jurisdiction, to award costs in accordance with the provisions of the rules.
- (2) Costs rules require the approval of the Authority.
- (3) Costs rules may not provide for the making of an award against the complainant in respect of the respondent’s costs.
- (4) But they may provide for the making of an award against the complainant in favour of the scheme operator, for the purpose of providing a contribution to resources deployed in dealing with the complaint, if in the opinion of the ombudsman—
 - (a) the complainant’s conduct was improper or unreasonable; or
 - (b) the complainant was responsible for an unreasonable delay.
- (5) Costs rules may authorise an ombudsman making an award in accordance with the rules to order that the amount payable under the award bears interest at a rate and as from a date specified in the order.
- (6) An amount due under an award made in favour of the scheme operator is recoverable as a debt due to the scheme operator.
- (7) Any other award made against the respondent is to be treated as a money award for the purposes of paragraph 16 of Schedule 17.

Modifications etc. (not altering text)

- C13** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004](#) (S.I. 2004/454), **arts. 1(2), 5**
- C14** S. 230 applied (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1), 7(1)**; S.I. 2001/3538, **art. 2(1)**
S. 230 restricted (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1), 6(1)(c)**; S.I. 2001/3538, **art. 2(1)**
- C15** S. 230(6)(7) applied (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, **arts. 1(1), 6(6)**; S.I. 2001/3538, **art. 2(1)**

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Information

231 Ombudsman’s power to require information.

- (1) An ombudsman may, by notice in writing given to a party to a complaint, require that party—
 - (a) to provide specified information or information of a specified description; or
 - (b) to produce specified documents or documents of a specified description.
- (2) The information or documents must be provided or produced—
 - (a) before the end of such reasonable period as may be specified; and
 - (b) in the case of information, in such manner or form as may be specified.
- (3) This section applies only to information and documents the production of which the ombudsman considers necessary for the determination of the complaint.
- (4) If a document is produced in response to a requirement imposed under this section, the ombudsman may—
 - (a) take copies or extracts from the document; or
 - (b) require the person producing the document to provide an explanation of the document.
- (5) If a person who is required under this section to produce a document fails to do so, the ombudsman may require him to state, to the best of his knowledge and belief, where the document is.
- (6) If a person claims a lien on a document, its production under this Part does not affect the lien.
- (7) “Specified” means specified in the notice given under subsection (1).

Modifications etc. (not altering text)

C16 S. 231 applied (1.12.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)\(b\)](#), [11\(5\)](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)

C17 Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), [arts. 1\(2\)](#), [5](#)

S. 231 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), [arts. 1\(2\)](#), [11\(5\)](#)

232 Powers of court where information required.

- (1) If a person (“the defaulter”) fails to comply with a requirement imposed under section 231, the ombudsman may certify that fact in writing to the court and the court may enquire into the case.
- (2) If the court is satisfied that the defaulter failed without reasonable excuse to comply with the requirement, it may deal with the defaulter (and, in the case of a body corporate, any director or officer) as if he were in contempt ^[F2]; and “officer”, in relation to a limited liability partnership, means a member of the limited liability partnership.]

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- (3) “Court” means—
- (a) the High Court;
 - (b) in Scotland, the Court of Session.

Textual Amendments

F2 Words in s. 232(2) inserted (6.4.2001 for E.W.S and 13.9.2004 for N.I.) by S.I. 2001/1090, regs. 1, 9, Sch. 5 para. 21; S.R. 2004/307, reg. 9, Sch. 4 para. 17

Modifications etc. (not altering text)

C18 S. 232 applied (1.12.2001) by S.I. 2001/2326, arts. 1(1)(b), 11(5); S.I. 2001/3538, art. 2(1)

C19 Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order 2004 (S.I. 2004/454), arts. 1(2), 5

S. 232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order 2004 (S.I. 2004/454), arts. 1(2), 11(5)

233 Data protection.

In section 31 of the ^{M2}Data Protection Act 1998 (regulatory activity), after subsection (4), insert—

“(4A) Personal data processed for the purpose of discharging any function which is conferred by or under Part XVI of the Financial Services and Markets Act 2000 on the body established by the Financial Services Authority for the purposes of that Part are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of the function.”

Marginal Citations

M2 1998 c. 29.

Funding

234 Industry funding.

- (1) For the purpose of funding—
- (a) the establishment of the ombudsman scheme (whenever any relevant expense is incurred), and
 - (b) its operation in relation to the compulsory jurisdiction,
- the Authority may make rules requiring the payment to it or to the scheme operator, by authorised persons or any class of authorised person of specified amounts (or amounts calculated in a specified way).
- (2) “Specified” means specified in the rules.

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Modifications etc. (not altering text)

- C20** S. 234(1) amended (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b), 12(1)**; S.I. 2001/3538, **art. 2(1)**
- C21** S. 234(1) extended (31.10.2004 for certain purposes and 14.1.2005 otherwise) by **The Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order 2004** (S.I. 2004/454), **arts. 1(2), 6(1)**

VALID FROM 16/06/2006

^{F3}_{F3} **Funding by consumer credit licensees etc.**

234A

- (1) For the purpose of funding—
 - (a) the establishment of the ombudsman scheme so far as it relates to the consumer credit jurisdiction (whenever any relevant expense is incurred), and
 - (b) its operation in relation to the consumer credit jurisdiction,
 the scheme operator may from time to time with the approval of the Authority determine a sum which is to be raised by way of contributions under this section.
- (2) A sum determined under subsection (1) may include a component to cover the costs of the collection of contributions to that sum (“collection costs”) under this section.
- (3) The scheme operator must notify the OFT of every determination under subsection (1).
- (4) The OFT must give general notice of every determination so notified.
- (5) The OFT may by general notice impose requirements on—
 - (a) licensees to whom this section applies, or
 - (b) persons who make applications to which this section applies,
 to pay contributions to the OFT for the purpose of raising sums determined under subsection (1).
- (6) The amount of the contribution payable by a person under such a requirement—
 - (a) shall be the amount specified in or determined under the general notice; and
 - (b) shall be paid before the end of the period or at the time so specified or determined.
- (7) A general notice under subsection (5) may—
 - (a) impose requirements only on descriptions of licensees or applicants specified in the notice;
 - (b) provide for exceptions from any requirement imposed on a description of licensees or applicants;
 - (c) impose different requirements on different descriptions of licensees or applicants;
 - (d) make provision for refunds in specified circumstances.
- (8) Contributions received by the OFT must be paid to the scheme operator.
- (9) As soon as practicable after the end of—
 - (a) each financial year of the scheme operator, or

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- (b) if the OFT and the scheme operator agree that this paragraph is to apply instead of paragraph (a) for the time being, each period agreed by them, the scheme operator must pay to the OFT an amount representing the extent to which collection costs are covered in accordance with subsection (2) by the total amount of the contributions paid by the OFT to it during the year or (as the case may be) the agreed period.
- (10) Amounts received by the OFT from the scheme operator are to be retained by it for the purpose of meeting its costs.
- (11) The Secretary of State may by order provide that the functions of the OFT under this section are for the time being to be carried out by the scheme operator.
- (12) An order under subsection (11) may provide that while the order is in force this section shall have effect subject to such modifications as may be set out in the order.
- (13) The licensees to whom this section applies are licensees under standard licences which cover to any extent the carrying on of a type of business specified in an order under section 226A(2)(e).
- (14) The applications to which this section applies are applications for—
- (a) standard licences covering to any extent the carrying on of a business of such a type;
 - (b) the renewal of standard licences on terms covering to any extent the carrying on of a business of such a type.
- (15) Expressions used in the Consumer Credit Act 1974 have the same meaning in this section as they have in that Act.]]

Textual Amendments

- F3** S. 234A inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 60, 71(2)**; [S.I. 2006/1508](#), **art. 3(1)**, [Sch. 1](#)

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