



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVI

THE OMBUDSMAN SCHEME

Determination of complaints

228 Determination under the compulsory jurisdiction.

- (1) This section applies only in relation to the compulsory jurisdiction [^{F1}and to the consumer credit 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.

Status: Point in time view as at 16/04/2012.

Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Determination of complaints is up to date with all changes known to be in force on or before 11 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)

- (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.

Textual Amendments

- F1** Words in s. 228(1) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(3), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1

Modifications etc. (not altering text)

- C1** 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)
- C2** 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
- C3** 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)
- C4** 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 [^{F2}and to the consumer credit 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 [^{F3}for the purposes of the compulsory jurisdiction] the maximum amount which may be regarded as fair compensation for a particular kind of loss or damage specified under subsection (3)(b).
- [^{F4}(4A) The scheme operator may specify for the purposes of the consumer credit jurisdiction 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—

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- (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 [F5 or (as the case may be) Part 3A of that Schedule].
- (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.
- [F6(11) “Specified” means—
- (a) for the purposes of the compulsory jurisdiction, specified in compulsory jurisdiction rules;
 - (b) for the purposes of the consumer credit jurisdiction, specified in consumer credit rules.
- (12) Consumer credit rules under this section may make different provision for different cases.]

Textual Amendments

- F2** Words in s. 229(1) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(3), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1
- F3** Words in s. 229(4) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(4), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1
- F4** S. 229(4A) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(5), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1
- F5** Words in s. 229(8)(b) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(6), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1
- F6** S. 229(11)(12) substituted (16.6.2006) for s. 229(11) by Consumer Credit Act 2006 (c. 14), ss. 61(7), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1

Modifications etc. (not altering text)

- C5** 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)
- C6** 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
- C7** 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)
- C8** 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

- I1** 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.

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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 [^{F7}or the consumer credit 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 [^{F8}or (as the case may be) paragraph 16D of that Schedule].

Textual Amendments

- F7** Words in s. 230(1) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 61(8)(a)**, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1
- F8** Words in s. 230(7) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 61(8)(b)**, 71(2); S.I. 2006/1508, **art. 3(1)**, Sch. 1

Modifications etc. (not altering text)

- C9** 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)**
- C10** 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
- C11** 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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