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Changes to legislation: Financial Services and Markets Act 2000, Part 3A is up to date with all changes known to be in force on or before 23 June 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)

SCHEDULES

SCHEDULE 17

THE OMBUDSMAN SCHEME

VALID FROM 16/06/2006

[^{F1}PART 3A

THE CONSUMER CREDIT JURISDICTION

Textual Amendments

- F1** Sch. 17 Pt. 3A inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 59(2), 71(2), Sch. 2; S.I. 2006/1508, art. 3(1), Sch. 1

Introduction

- 16A This Part of this Schedule applies only in relation to the consumer credit jurisdiction.

Procedure for complaints etc.

- 16B (1) Consumer credit rules—
- (a) must provide that a complaint is not to be entertained unless the complainant has referred it under the ombudsman scheme before the applicable time limit (determined in accordance with the rules) has expired;
 - (b) may provide that an ombudsman may extend that time limit in specified circumstances;
 - (c) may provide that a complaint is not to be entertained (except in specified circumstances) if the complainant has not previously communicated its substance to the respondent and given him a reasonable opportunity to deal with it;
 - (d) may make provision about the procedure for the reference of complaints and for their investigation, consideration and determination by an ombudsman.
- (2) Sub-paragraphs (2) and (3) of paragraph 14 apply in relation to consumer credit rules under sub-paragraph (1) of this paragraph as they apply in relation to scheme rules under that paragraph.
- (3) Consumer credit rules may require persons falling within sub-paragraph (6) to establish such procedures as the scheme operator considers appropriate for the resolution of complaints which may be referred to the scheme.

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- (4) Consumer credit rules under sub-paragraph (3) may make different provision in relation to persons of different descriptions or to complaints of different descriptions.
- (5) Consumer credit rules under sub-paragraph (3) may authorise the scheme operator to dispense with or modify the application of such rules in particular cases where the scheme operator—
 - (a) considers it appropriate to do so; and
 - (b) is satisfied that the specified conditions (if any) are met.
- (6) A person falls within this sub-paragraph if he is licensed by a standard licence (within the meaning of the Consumer Credit Act 1974) to carry on to any extent a business of a type specified in an order under section 226A(2)(e) of this Act.

Fees

- 16C (1) Consumer credit rules may require a respondent to pay to the scheme operator such fees as may be specified in the rules.
- (2) Sub-paragraph (2) of paragraph 15 applies in relation to consumer credit rules under this paragraph as it applies in relation to scheme rules under that paragraph.

Enforcement of money awards

- 16D A money award, including interest, which has been registered in accordance with consumer credit rules may—
- (a) if a county court so orders in England and Wales, be recovered by execution issued from the county court (or otherwise) as if it were payable under an order of that court;
 - (b) be enforced in Northern Ireland as a money judgment under the Judgments Enforcement (Northern Ireland) Order 1981;
 - (c) be enforced in Scotland as if it were a decree of the sheriff and whether or not the sheriff could himself have granted such a decree.

Procedure for consumer credit rules

- 16E (1) If the scheme operator makes any consumer credit rules, it must give a copy of them to the Authority without delay.
- (2) If the scheme operator revokes any such rules, it must give written notice to the Authority without delay.
- (3) The power to make such rules is exercisable in writing.
- (4) Immediately after the making of such rules, the scheme operator must arrange for them to be printed and made available to the public.
- (5) The scheme operator may charge a reasonable fee for providing a person with a copy of any such rules.

Verification of consumer credit rules

- 16F (1) The production of a printed copy of consumer credit rules purporting to be made by the scheme operator—

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- (a) on which there is endorsed a certificate signed by a member of the scheme operator's staff authorised by the scheme operator for that purpose, and
 - (b) which contains the required statements,
- is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.

(2) The required statements are—

- (a) that the rules were made by the scheme operator;
- (b) that the copy is a true copy of the rules; and
- (c) that on a specified date the rules were made available to the public in accordance with paragraph 16E(4).

(3) A certificate purporting to be signed as mentioned in sub-paragraph (1) is to be taken to have been duly signed unless the contrary is shown.

Consultation

16G (1) If the scheme operator proposes to make consumer credit rules, it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring the draft to the attention of the public.

(2) The draft must be accompanied by—

- (a) an explanation of the proposed rules; and
- (b) a statement that representations about the proposals may be made to the scheme operator within a specified time.

(3) Before making any consumer credit rules, the scheme operator must have regard to any representations made to it in accordance with sub-paragraph (2)(b).

(4) If consumer credit rules made by the scheme operator differ from the draft published under sub-paragraph (1) in a way which the scheme operator considers significant, the scheme operator must publish a statement of the difference.]

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