
STATUTORY INSTRUMENTS

2018 No. 1253

**The Financial Services and Markets Act 2000
(Claims Management Activity) Order 2018**

PART 3

Transitional provisions

CHAPTER 4

Complaints: the Legal Ombudsman and the Financial Ombudsman Service

Determination of relevant existing complaints

72.—(1) In this article, except for the references in paragraphs (2) and (4) to sections of the 2007 Act, a reference to a numbered section is a reference to the section so numbered in the 2000 Act.

(2) Where a relevant existing complaint is to be determined under the new scheme, the complaint must, so far as practicable, be determined by reference to such criteria as would have applied to the determination of the complaint under the former scheme immediately before 1st April 2019 by virtue of scheme rules under section 133 of the 2007 Act.

(3) Sections 228(1) (determination under the compulsory jurisdiction) and 230A (reports of determinations) apply in relation to the determination of a relevant existing complaint with the following modifications—

- (a) section 228 is to be read as if subsection (2) were omitted; and
- (b) section 230A(1)(2) is to be read as if the reference to any determination made under Part 16 included the determination of the relevant existing complaint.

(4) The determination of a relevant existing complaint may contain any one or more of the directions set out in subsection (2) of section 137 of the 2007 Act, and for those purposes—

- (a) a direction under subsection (2)(c) of that section, is to be treated as a money award (within the meaning given by section 229(2)(a)(3)) for the purposes of paragraph 16 of Schedule 17 to the 2000 Act; and
- (b) any other direction is to be treated as a direction under section 229(2)(b) for the purposes of section 229(9) and (10).

(5) An ombudsman may, on determining a relevant existing complaint, award costs having regard to provision for the award of costs made in rules of the former scheme, and for those purposes—

- (a) it does not matter whether the award is attributable to an act or omission which occurs before 1st April 2019 or to an act or omission which occurs on or after that date; and

(1) Section 228 was amended by the Financial Services Act 2012 (c. 21), section 39 and S.I. 2013/1881.

(2) Section 230A was inserted by the Financial Services Act 2012, section 39.

(3) Paragraph 16 of Schedule 17 was amended by the Crime and Courts Act 2013 (c. 22), section 17(5) and the Tribunals, Courts and Enforcement Act 2007 (c. 15), section 62(3).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) section 230(7) of, and paragraph 16 of Schedule 17 to, the 2000 Act apply in relation to the award as they apply in relation to an award of costs made in accordance with rules under section 230(1).