



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XV

#### THE FINANCIAL SERVICES COMPENSATION SCHEME

##### *Miscellaneous*

#### [<sup>F1</sup>221A Delegation of functions

- (1) The scheme manager may arrange for any of its functions to be discharged on its behalf by another person (a “scheme agent”).
- (2) Before entering into arrangements the scheme manager must be satisfied that the scheme agent—
  - (a) is competent to discharge the function, and
  - (b) has been given sufficient directions to enable the agent to take any decisions required in the course of exercising the function in accordance with policy determined by the scheme manager.
- (3) Arrangements may include provision for payments to be made by the scheme manager to the scheme agent (which payments are management expenses of the scheme manager [<sup>F2</sup>except where the function in question is one under Part 15A]).]

#### Textual Amendments

- F1** S. 221A inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\), ss. 179\(1\), 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), Sch.
- F2** Words in s. 221A(3) inserted (12.10.2010) by [Financial Services Act 2010 \(c. 28\), ss. 24\(1\), 26\(3\), Sch. 2 para. 23](#); S.I. 2010/2480, [art. 2\(e\)\(f\)](#)

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## 222 Statutory immunity.

- (1) Neither the scheme manager nor any person who is, or is acting as, its <sup>F3</sup>... officer [<sup>F4</sup>, scheme agent] or member of staff is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of the scheme manager's functions.
- (2) Subsection (1) does not apply—
  - (a) if the act or omission is shown to have been in bad faith; or
  - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the <sup>M1</sup>Human Rights Act 1998.

### Textual Amendments

- F3** Words in s. 222(1) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 14](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F4** Words in s. 222(1) inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 179\(2\)](#), [263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)

### Modifications etc. (not altering text)

- C1** S. 222 modified (29.9.2008 at 8.00 a.m.) by [The Bradford & Bingley plc Transfer of Securities and Property etc. Order 2008 \(S.I. 2008/2546\)](#), [art. 32](#) (with art. 30(6))
- C2** S. 222 modified (7.10.2008 at 9.30 a.m.) by [The Heritable Bank plc Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2644\)](#), [art. 17](#) (with art. 15(8))
- C3** S. 222 modified (8.10.2008 at 10.10 a.m.) by [The Transfer of Rights and Liabilities to ING Order 2008 \(S.I. 2008/2666\)](#), [art. 14](#)
- C4** S. 222 modified (8.10.2008 at 12.15 p.m.) by [The Kaupthing Singer & Friedlander Limited Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2674\)](#), [art. 18](#) (with art. 16(8))

### Marginal Citations

- M1** 1998 c. 42.

## 223 Management expenses.

- (1) The amount which the scheme manager may recover, from the sums levied under the scheme, as management expenses attributable to a particular period may not exceed such amount as may be fixed by the scheme as the limit applicable to that period.
- (2) In calculating the amount of any levy to be imposed by the scheme manager, no amount may be included to reflect management expenses unless the limit mentioned in subsection (1) has been fixed by the scheme.
- (3) “Management expenses” means expenses incurred, or expected to be incurred, by the scheme manager in connection with its functions under this Act other than those incurred—
  - (a) in paying compensation;
  - (b) as a result of any provision of the scheme made by virtue of section 216(3) or (4) or 217(1) or (6)<sup>F5</sup>;
  - (c) under section 214B [<sup>F6</sup>or 214D].]
  - <sup>F7</sup>(d) under Part 15A.]

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#### Textual Amendments

- F5** S. 223(3)(c) added (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 171\(2\)](#), [263\(1\)\(2\)](#) (with [s. 247](#)); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)
- F6** Words in s. 223(3)(c) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 24\(1\)](#), [26\(1\)](#), [Sch. 2 para. 24\(2\)](#)
- F7** S. 223(3)(d) inserted (12.10.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 24\(1\)](#), [26\(3\)](#), [Sch. 2 para. 24\(3\)](#); [S.I. 2010/2480](#), [art. 2\(e\)\(f\)](#)

#### Commencement Information

- II** S. 223 wholly in force at 1.12.2001; s. 223 not in force at Royal Assent see [s. 431\(2\)](#); s. 223 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2](#), [Sch.](#); s. 223 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

PROSPECTIVE

#### [<sup>F8</sup>223A Investing in National Loans Fund

- (1) Sums levied for the purpose of maintaining a contingency fund may be paid to the Treasury.
- (2) The Treasury may receive sums under subsection (1) and may set terms and conditions of receipts.
- (3) Sums received shall be treated as if raised under section 12 of the National Loans Act 1968 (and shall therefore be invested as part of the National Loans Fund).
- (4) Interest accruing on the invested sums may be credited to the contingency fund (subject to any terms and conditions set under subsection (2)).
- (5) The Treasury shall comply with any request of the scheme manager to arrange for the return of sums for the purpose of making payments out of a contingency fund (subject to any terms and conditions set under subsection (2)).]

#### Textual Amendments

- F8** S. 223A inserted (prosp.) by [Banking Act 2009 \(c. 1\)](#), [ss. 172](#), [263\(1\)\(2\)](#) (with [s. 247](#))

#### [<sup>F9</sup>223B Borrowing from National Loans Fund

- (1) The scheme manager may request a loan from the National Loans Fund for the purpose of funding expenses incurred or expected to be incurred under the scheme.
- (2) The Treasury may arrange for money to be paid out of the National Loans Fund in pursuance of a request under subsection (1).
- (3) The Treasury shall determine—
  - (a) the rate of interest on a loan, and
  - (b) other terms and conditions.
- (4) The Treasury may make regulations—

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- (a) about the amounts that may be borrowed under this section;
  - (b) permitting the scheme manager to impose levies under section 213 for the purpose of meeting expenses in connection with loans under this section (and the regulations may have effect despite any provision of this Act);
  - (c) about the classes of person on whom those levies may be imposed;
  - (d) about the amounts and timing of those levies.
- (5) The compensation scheme may include provision about borrowing under this section provided that it is not inconsistent with regulations under this section.]

**Textual Amendments**

**F9** S. 223B inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 173, 263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)

**[<sup>F10</sup>223C Payments in error**

- (1) Payments made by the scheme manager in error may be provided for in setting a levy by virtue of section 213, 214A, 214B or 223B.
- (2) This section does not apply to payments made in bad faith.]

**Textual Amendments**

**F10** S. 223C inserted (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 177, 263\(1\)\(2\)](#) (with s. 247); [S.I. 2009/296](#), [arts. 2, 3](#), [Sch.](#)

**224 Scheme manager’s power to inspect documents held by Official Receiver etc.**

- (1) If, as a result of the insolvency or bankruptcy of a relevant person, [<sup>F11</sup>or a successor falling within section 213(1)(b),] any documents have come into the possession of a person to whom this section applies, he must permit any person authorised by the scheme manager to inspect the documents for the purpose of establishing—
  - (a) the identity of persons to whom the scheme manager may be liable to make a payment in accordance with the compensation scheme; or
  - (b) the amount of any payment which the scheme manager may be liable to make.
- (2) A person inspecting a document under this section may take copies or extracts from the document.
- (3) In this section “relevant person” means a person who was—
  - (a) an authorised person at the time the act or omission which may give rise to the liability mentioned in subsection (1)(a) took place; or
  - (b) an appointed representative at that time.
- (4) But a person who, at that time—
  - (a) qualified for authorisation under Schedule 3, and
  - (b) fell within a prescribed category,
 is not to be regarded as a relevant person for the purposes of this section in relation to any activities for which he had permission as a result of any provision of, or made

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under, that Schedule unless he had elected to participate in the scheme in relation to those activities at that time.

- (5) This section applies to—
- (a) the Official Receiver;
  - (b) the Official Receiver for Northern Ireland; and
  - (c) the Accountant in Bankruptcy.

#### Textual Amendments

**F11** Words in s. 224(1) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 10 para. 15](#) (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

**C5** S. 224 extended (1.12.2001) by [S.I. 2001/2967](#), [arts. 1\(2\)](#), 8, 12(4)(c); [S.I. 2001/3538](#), [art. 2\(1\)](#)  
**C6** S. 224(3) excluded (2.7.2002) by [The Financial Services and Markets Act 2000 \(Consequential Amendments and Transitional Provisions\) \(Credit Unions\) Order 2002 \(S.I. 2002/1501\)](#), [art. 5\(1\)](#)

#### Commencement Information

**I2** S. 224 wholly in force at 1.12.2001; s. 224 not in force at Royal Assent see s. 431(2); s. 224(4) in force for certain purposes at 25.2.2001 by [S.I. 2001/516](#), [art. 2\(b\)](#), [Sch. Pt. 2](#); s. 224 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), [art. 2\(1\)](#)

### [<sup>F12</sup>224Z] Discharge of functions

- (1) In discharging its functions the scheme manager must have regard to—
- (a) the need to ensure efficiency and effectiveness in the discharge of those functions, and
  - (b) the need to minimise public expenditure attributable to loans made or other financial assistance given to the scheme manager for the purposes of the scheme.
- (2) In subsection (1)(b) “financial assistance” includes the giving of guarantees and indemnities and any other kind of financial assistance (actual or contingent).]

#### Textual Amendments

**F12** S. 224ZA inserted (1.3.2014) by [Financial Services \(Banking Reform\) Act 2013 \(c. 33\)](#), [ss. 14](#), 148(5); [S.I. 2014/377](#), art. 2(1)(a), [Sch. Pt. 1](#)

### [<sup>F13</sup>224A] Functions under the Banking Act 2009

[ A reference in this Part to functions of the scheme manager (including a reference to <sup>F14</sup>(1)) functions conferred by or under this Part) includes a reference to functions conferred by or under the Banking Act 2009.

[ Any payment required to be made by the scheme manager by virtue of section 61 of <sup>F15</sup>(2) that Act (special resolution regime: compensation) is to be treated for the purposes of this Part as an expense under the compensation scheme.]]

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#### **Textual Amendments**

- F13** S. 224A added (17.2.2009 for certain purposes and 21.2.2009 otherwise) by [Banking Act 2009 \(c. 1\)](#), [ss. 180, 263\(1\)\(2\)](#) (with s. 247); S.I. 2009/296, [arts. 2, 3](#), [Sch.](#)
- F14** S. 224A renumbered as s. 224A(1) (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 24\(1\), 26\(1\)](#), [Sch. 2 para. 25\(2\)](#)
- F15** S. 224A(2) inserted (8.4.2010) by [Financial Services Act 2010 \(c. 28\)](#), [ss. 24\(1\), 26\(1\)](#), [Sch. 2 para. 25\(3\)](#)

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