



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XVI

THE OMBUDSMAN SCHEME

Determination of complaints

VALID FROM 01/12/2001

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.

Status: Point in time view as at 21/06/2001. This version of this cross heading contains provisions that are not valid for this point in time.

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- (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)

- C1 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
- C2 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)
- 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.
- (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

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- (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)

- 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. 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)
- 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

- II** 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—
- the complainant’s conduct was improper or unreasonable; or
 - 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.

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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. 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)**
- 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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