



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXVIII

#### MISCELLANEOUS

#### *[<sup>F1</sup>Consumer redress schemes]*

#### **[<sup>F1</sup>404A Rules under s.404: supplementary**

- (1) Rules under section 404 may make provision—
  - (a) specifying the activities and requirements in relation to which relevant firms are to carry out investigations under consumer redress schemes;
  - (b) setting out, in relation to any specified description of case, examples of things done, or omitted to be done, that are to be regarded as constituting a failure to comply with a requirement;
  - (c) setting out, in relation to any specified description of case, matters to be taken into account, or steps to be taken, by relevant firms for the purpose of—
    - (i) assessing evidence as to a failure to comply with a requirement; or
    - (ii) determining whether such a failure has caused (or may cause) loss or damage to consumers;
  - (d) as to the kinds of redress that are, or are not, to be made to consumers in specified descriptions of case and the way in which redress is to be determined in specified descriptions of case;
  - (e) as to the things that relevant firms are, or are not, to do in establishing and operating consumer redress schemes;
  - (f) securing that relevant firms are not required to investigate anything occurring after a specified date;
  - (g) specifying the times by which anything required to be done under any consumer redress scheme is to be done;
  - (h) requiring relevant firms to provide information to the [<sup>F2</sup>FCA];

*Changes to legislation: Financial Services and Markets Act 2000, Section 404A 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) View outstanding changes*

- (i) authorising one or more competent persons to do anything for the purposes of, or in connection with, the establishment or operation of any consumer redress scheme;
  - (j) for the nomination or approval by the [F<sup>2</sup>FCA] of persons authorised under paragraph (i);
  - (k) as to the circumstances in which, instead of a relevant firm, the [F<sup>2</sup>FCA] (or one or more competent persons acting on the [F<sup>2</sup>FCA's] behalf) may carry out the investigation and take the other relevant steps under any consumer redress scheme;
  - (l) as to the powers to be available to those carrying out an investigation by virtue of paragraph (k);
  - (m) as to the enforcement of any redress (for example, in the case of a money award, as a debt owed by a relevant firm).
- (2) The only examples that may be set out in the rules as a result of subsection (1)(b) are examples of things done, or omitted to be done, that have been, or would be, held by a court or tribunal to constitute a failure to comply with a requirement.
- (3) Matters may not be set out in the rules as a result of subsection (1)(c) if they have not been, or would not be, taken into account by a court or tribunal for the purpose mentioned there.
- (4) The [F<sup>2</sup>FCA] must exercise the power conferred as a result of subsection (1)(d) so as to secure that, in relation to any description of case, the only kinds of redress to be made are those which it considers to be just in relation to that description of case.
- (5) In acting under subsection (4), the [F<sup>2</sup>FCA] must have regard (among other things) to the nature and extent of the losses or damage in question.
- (6) The provision that may be made under subsection (1)(h) includes provision applying (with or without modifications)—
- (a) any provision of section 165; or
  - (b) any provision of Part 11 relating to that section.
- (7) The reference in subsection (1)(k) to the other relevant steps under any consumer redress scheme is a reference to the [F<sup>2</sup>FCA] making the determinations mentioned in section 404(6) and (7) (with the firm still required to make the redress).
- (8) If the rules include provision under subsection (1)(k), they must also include provision for—
- (a) giving warning and decision notices, and
  - (b) conferring rights on relevant firms to refer matters to the Tribunal,
- in relation to any determination mentioned in section 404(6) and (7) made by the [F<sup>2</sup>FCA].
- (9) Nothing in this section is to be taken as limiting the power conferred by section 404.]

#### Textual Amendments

- F1** Ss. 404-404G and preceding cross-heading substituted (12.10.2010) for s. 404 and preceding cross-heading by [Financial Services Act 2010 \(c. 28\)](#), **ss. 14, 26(3)**; S.I. 2010/2480, **art. 2**
- F2** Word in s. 404A substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 19** (with [Sch. 20](#)); S.I. 2013/423, **art. 3**, [Sch.](#)

### Changes to legislation:

Financial Services and Markets Act 2000, Section 404A 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.

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### Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))