



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXVIII

MISCELLANEOUS

[^{F1}Consumer redress schemes]

[^{F1}404B Complaints to the ombudsman scheme

(1) If—

- (a) a consumer makes a complaint under the ombudsman scheme in respect of an act or omission of a relevant firm, and
- (b) at the time the complaint is made, the subject-matter of the complaint falls to be dealt with (or has been dealt with) under a consumer redress scheme,

the way in which the complaint is to be determined by the ombudsman is to be as mentioned in subsection (4).

[Subsection (1) does not apply if the consumer and the relevant firm agree that it should ^{F2}(1A) not apply.]

(2) If a consumer—

- (a) is not satisfied with a determination made by a relevant firm under a consumer redress scheme, or
- (b) considers that a relevant firm has failed to make a determination in accordance with a consumer redress scheme,

the consumer may, in respect of that determination or failure, make a complaint under the ombudsman scheme.

[The way in which a complaint mentioned in subsection (2) is to be determined by the ^{F3}(2A) ombudsman is to be as mentioned in subsection (4).

(2B) Subsection (2A) does not apply if the consumer and the relevant firm agree that it should not apply.]

Status: Point in time view as at 09/07/2015.

Changes to legislation: Financial Services and Markets Act 2000, Section 404B is up to date with all changes known to be in force on or before 16 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)

- [^{F4}(3) In the following provisions of this section “relevant complaint” means—
- (a) a complaint mentioned in subsection (1) other than one in relation to which subsection (1A) applies, or
 - (b) a complaint mentioned in subsection (2) other than one in relation to which subsection (2B) applies.]
- (4) A relevant complaint is to be determined by reference to what, in the opinion of the ombudsman, the determination under the consumer redress scheme should be or should have been (subject to subsection (5)).
 - (5) If, in determining a relevant complaint, the ombudsman determines that the firm should make (or should have made) a payment of an amount to the consumer, the amount awarded by the ombudsman (a “money award”) must not exceed the monetary limit (within the meaning of section 229).
 - (6) But the ombudsman may recommend that the firm pay a larger amount.
 - (7) A money award—
 - (a) may specify the date by which the amount awarded is to be paid;
 - (b) may provide for interest to be payable, at a rate specified in the award, on any amount which is not paid by that date; and
 - (c) is enforceable by the consumer in accordance with Part 3 or 3A of Schedule 17 (as the case may be).
 - (8) If, in determining a relevant complaint, the ombudsman determines that the firm should take (or should have taken) particular action in relation to the consumer, the ombudsman may direct the firm to take that action.
 - (9) Compliance with a direction under subsection (8) is enforceable, on the application of the consumer, by an injunction or, in Scotland, by an order for specific performance under section 45 of the Court of Session Act 1988.
 - (10) In consequence of the provision made by this section, sections 228(2) and 229 do not apply in relation to relevant complaints; but all other provision made by or under Part 16 applies in relation to those complaints.
 - (11) The compulsory jurisdiction of the ombudsman scheme is to include the jurisdiction resulting from this section.
 - (12) Nothing in subsection (1) is to be taken as requiring the ombudsman to determine a complaint in any case where (apart from that subsection) the complaint would not fall to be determined (whether as a result of rules made under Schedule 17 or otherwise).
 - (13) Nothing in subsection (2) is to be taken as conferring an entitlement on a person who, for the purposes of the ombudsman scheme, is not an eligible complainant in relation to the subject-matter of the determination mentioned there.]

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** [S. 404B\(1A\)](#) inserted (7.4.2015) by [The Alternative Dispute Resolution for Consumer Disputes \(Competent Authorities and Information\) Regulations 2015 \(S.I. 2015/542\)](#), reg. 1(2), **Sch. 7 para. 1(2)(a)** (with reg. 7)

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- F3** S. 404B(2A)(2B) inserted (7.4.2015) by The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542), reg. 1(2), **Sch. 7 para. 1(2)(b)** (with reg. 7)
- F4** S. 404B(3) substituted (7.4.2015) by The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 (S.I. 2015/542), reg. 1(2), **Sch. 7 para. 1(2)(c)** (with reg. 7)

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