
STATUTORY INSTRUMENTS

2001 No. 2326

**The Financial Services and Markets Act
2000 (Transitional Provisions) (Ombudsman
Scheme and Complaints Scheme) Order 2001**

The Ombudsman Scheme

Complaints made after commencement about acts or omissions before commencement

3.—(1) Subject to the provisions of this Order, the compulsory jurisdiction resulting from section 226 applies to a complaint referred to the new scheme after commencement which relates to an act or omission occurring before commencement, if the conditions mentioned in paragraph (2) are satisfied (notwithstanding that the conditions in subsection (2)(b) and (c) of that section are not met).

(2) The conditions are that—

- (a) the act or omission is that of a person who was, immediately before commencement, subject to a former scheme;
- (b) the act or omission occurred in the carrying on by that person of an activity to which that former scheme applied; and
- (c) the complainant is eligible and wishes to have the complaint dealt with under the new scheme.

(3) For the purposes of paragraph (2)(c), where the complainant is not eligible in accordance with rules made under section 226(6) and (7) (power to specify in rules the classes of persons who are eligible complainants), an ombudsman may nonetheless, if he considers it appropriate, treat the complainant as eligible if he would have been entitled to refer an equivalent complaint to the former scheme in question immediately before commencement.

(4) Where the former scheme in question is the insurance scheme, a complainant is not to be treated as eligible for the purposes of paragraph (2)(c) unless—

- (a) he is an individual; and
- (b) the complaint does not concern aspects of a policy relating to a business or trade carried on by him.

(5) A complaint falling within paragraph (1) is referred to in this Order as a “relevant new complaint”.