

SMALL BUSINESS, ENTERPRISE AND EMPLOYMENT ACT 2015

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: REGULATORY REFORM

Report on investigations under financial regulators' complaint scheme

Section 20: Independent Complaints Commissioner: reporting duty

188. This section inserts new subsections (9A) and (9B) into Section 87 of the Financial Services Act 2012 (investigations of complaints against regulators) (“the 2012 Act”). The new subsections require the scheme established by the financial services regulators for the investigation of complaints against them (“the complaints scheme”) to place a duty on the investigator to produce an annual report on its investigations under the scheme. In this context the financial services regulators means the Prudential Regulation Authority, the Financial Conduct Authority and the Bank of England (“the regulators”).
189. The investigator is an independent appointee of the regulators, but is approved by the Treasury. The investigator is responsible for conducting investigations in accordance with the provisions of the complaints scheme. The scheme itself is prepared and published by the regulators following public consultation.
190. Subsection (2) inserts new subsection (9A) into section 87 of the 2012 Act, to introduce the requirement for the complaints scheme to provide for the annual report. New subsections (9A)(a)-(c) provide that the annual report is prepared and published by the investigator, who must send a copy of the report to each regulator and the Treasury. If the report makes recommendations or criticisms about the regulators' handling of complaints, the regulators must produce and publish a response. The regulators must send a copy of their response to both the investigator and the Treasury. The Treasury must lay the annual report and any responses before Parliament.
191. Subsection (2) also inserts new subsection (9B) into section 87 of the 2012 Act. This provides express power for the complaints scheme to include provision about the period to which each annual report must relate, and about the contents of the report.
192. In addition new subsection (9B) requires the complaints scheme to provide for the report to include specific contents. In particular the report must include:
- i. information concerning any general trends emerging from the investigations undertaken by the investigator during the reporting period (new subsection (9B) (a));
 - ii. any recommendations the investigator considers appropriate as to how the regulators should respond to such trends (new subsection (9B)(b));

These notes refer to the Small Business, Enterprise and Employment Act 2015 (c.26) which received Royal Assent on 26 March 2015

- iii. a review of the effectiveness of the procedures of the regulators for handling complaints which have been investigated by the investigator (new subsection (9B)(c));
- iv. an assessment of how accessible and fair those procedures were, including where appropriate an assessment of how the procedures affected different categories of complainant such as businesses and individuals (new subsection (9B)(d)); and
- v. any recommendations about how those procedures could be improved (new subsection 9B(e)).