

SCHEDULES

SCHEDULE 17

THE OMBUDSMAN SCHEME

PART IV

THE VOLUNTARY JURISDICTION

Introduction

- 17 This Part of this Schedule applies only in relation to the voluntary jurisdiction.

Terms of reference to the scheme

- 18 (1) Complaints are to be dealt with and determined under the voluntary jurisdiction on standard terms fixed by the scheme operator with the approval of the Authority.
- (2) Different standard terms may be fixed with respect to different matters or in relation to different cases.
- (3) The standard terms may, in particular—
- (a) require the making of payments to the scheme operator by participants in the scheme of such amounts, and at such times, as may be determined by the scheme operator;
 - (b) make provision as to the award of costs on the determination of a complaint.
- (4) The scheme operator may not vary any of the standard terms or add or remove terms without the approval of the Authority.
- (5) The standard terms may include provision to the effect that (unless acting in bad faith) none of the following is to be liable in damages for anything done or omitted in the discharge or purported discharge of functions in connection with the voluntary jurisdiction—
- (a) the scheme operator;
 - (b) any member of its governing body;
 - (c) any member of its staff;
 - (d) any person acting as an ombudsman for the purposes of the scheme.

Delegation by and to other schemes

- 19 (1) The scheme operator may make arrangements with a relevant body—
- (a) for the exercise by that body of any part of the voluntary jurisdiction of the ombudsman scheme on behalf of the scheme; or
 - (b) for the exercise by the scheme of any function of that body as if it were part of the voluntary jurisdiction of the scheme.

Status: This is the original version (as it was originally enacted).

- (2) A “relevant body” is one which the scheme operator is satisfied—
- (a) is responsible for the operation of a broadly comparable scheme (whether or not established by statute) for the resolution of disputes; and
 - (b) in the case of arrangements under sub-paragraph (1)(a), will exercise the jurisdiction in question in a way compatible with the requirements imposed by or under this Act in relation to complaints of the kind concerned.
- (3) Such arrangements require the approval of the Authority.

Voluntary jurisdiction rules: procedure

- 20 (1) If the scheme operator makes voluntary jurisdiction rules, it must give a copy to the Authority without delay.
- (2) If the scheme operator revokes any such rules, it must give written notice to the Authority without delay.
- (3) The power to make voluntary jurisdiction rules is exercisable in writing.
- (4) Immediately after making voluntary jurisdiction rules, the scheme operator must arrange for them to be printed and made available to the public.
- (5) The scheme operator may charge a reasonable fee for providing a person with a copy of any voluntary jurisdiction rules.

Verification of the rules

- 21 (1) The production of a printed copy of voluntary jurisdiction rules purporting to be made by the scheme operator—
- (a) on which is endorsed a certificate signed by a member of the scheme operator’s staff authorised by the scheme operator for that purpose, and
 - (b) which contains the required statements,
- is evidence (or in Scotland sufficient evidence) of the facts stated in the certificate.
- (2) The required statements are—
- (a) that the rules were made by the scheme operator;
 - (b) that the copy is a true copy of the rules; and
 - (c) that on a specified date the rules were made available to the public in accordance with paragraph 20(4).
- (3) A certificate purporting to be signed as mentioned in sub-paragraph (1) is to be taken to have been duly signed unless the contrary is shown.

Consultation

- 22 (1) If the scheme operator proposes to make voluntary jurisdiction rules, it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of the public.
- (2) The draft must be accompanied by—
- (a) an explanation of the proposed rules; and
 - (b) a statement that representations about the proposals may be made to the scheme operator within a specified time.

Status: This is the original version (as it was originally enacted).

- (3) Before making any voluntary jurisdiction rules, the scheme operator must have regard to any representations made to it in accordance with sub-paragraph (2)(b).
- (4) If voluntary jurisdiction rules made by the scheme operator differ from the draft published under sub-paragraph (1) in a way which the scheme operator considers significant, the scheme operator must publish a statement of the difference.