



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVI

#### THE OMBUDSMAN SCHEME

##### **Modifications etc. (not altering text)**

- C1** Pt. XVI applied (1.5.2009 for certain purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2), **125** (with reg. 3)
- C2** Pt. XVI applied (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), reg. **76(2)** (with reg. 3)
- C3** Pt. XVI applied (with modifications) (20.4.2015 for specified purposes, 21.12.2015 for specified purposes, 21.3.2016 in so far as not already in force) by [The Mortgage Credit Directive Order 2015 \(S.I. 2015/910\)](#), arts. 1(5), **26** (with Pt. 4)
- C4** Pt. XVI applied (with modifications) (1.1.2016) by [The Small and Medium Sized Business \(Credit Information\) Regulations 2015 \(S.I. 2015/1945\)](#), regs. 1(2), **17(1)**
- C5** Pt. XVI applied (with modifications) (1.1.2016) by [The Small and Medium Sized Business \(Finance Platforms\) Regulations 2015 \(S.I. 2015/1946\)](#), regs. 1(2), **14**

#### *The scheme*

#### **225 The scheme and the scheme operator.**

- (1) This Part provides for a scheme under which certain disputes may be resolved quickly and with minimum formality by an independent person.
- (2) The scheme is to be administered by a body corporate (“the scheme operator”).
- (3) The scheme is to be operated under a name chosen by the scheme operator but is referred to in this Act as “the ombudsman scheme”.
- (4) Schedule 17 makes provision in connection with the ombudsman scheme and the scheme operator.

*Status: Point in time view as at 21/04/2016.*

*Changes to legislation: Financial Services and Markets Act 2000, Part XVI is up to date with all changes known to be in force on or before 17 September 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)*

## 226 Compulsory jurisdiction.

- (1) A complaint which relates to an act or omission of a person (“the respondent”) in carrying on an activity to which compulsory jurisdiction rules apply is to be dealt with under the ombudsman scheme if the conditions mentioned in subsection (2) are satisfied.
- (2) The conditions are that—
  - (a) the complainant is eligible and wishes to have the complaint dealt with under the scheme;
  - (b) the respondent was an authorised person [<sup>F1</sup>or an electronic money issuer within the meaning of the Electronic Money Regulations 2011]<sup>F2</sup>, or a payment service provider within the meaning of the Payment Services Regulations 2009,] at the time of the act or omission to which the complaint relates; and
  - (c) the act or omission to which the complaint relates occurred at a time when compulsory jurisdiction rules were in force in relation to the activity in question.
- (3) “Compulsory jurisdiction rules” means rules—
  - (a) made by the [<sup>F3</sup>FCA] for the purposes of this section; and
  - (b) specifying the activities to which they apply.
- (4) Only activities which are regulated activities, or which could be made regulated activities by an order under section 22, may be specified.
- (5) Activities may be specified by reference to specified categories (however described).
- (6) A complainant is eligible, in relation to the compulsory jurisdiction of the ombudsman scheme, if he falls within a class of person specified in the rules as eligible.
- (7) The rules—
  - (a) may include provision for persons other than individuals to be eligible; but
  - (b) may not provide for authorised persons to be eligible except in specified circumstances or in relation to complaints of a specified kind.
- (8) The jurisdiction of the scheme which results from this section is referred to in this Act as the “compulsory jurisdiction”.

### Textual Amendments

- F1** Words in s. 226(2)(b) inserted (9.2.2011 for certain purposes and 30.4.2011 otherwise) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(3\)\(a\)](#) (with reg. 3)
- F2** Words in s. 226(2)(b) inserted (2.3.2009 for certain purposes, 1.5.2009 for certain further purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2), 126, [Sch. 6 para. 1\(1\)\(a\)](#) (with reg. 3)
- F3** Word in s. 226(3)(a) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 1](#) (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

### Modifications etc. (not altering text)

- C6** S. 226 extended (19.7.2001 for specified purposes otherwise 1.12.2001) by S.I. 2001/2326, [arts. 1\(1\), 3\(1\)](#); S.I. 2001/3538, [art. 2\(1\)](#)

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**C7** S. 226(2) excluded (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326, arts. 1\(1\), 2\(4\)](#); [S.I. 2001/3538, art. 2\(1\)](#)

#### Commencement Information

**II** S. 226 wholly in force at 1.12.2001; s. 226 not in force at Royal Assent see s. 431(2); s. 226 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820, art. 2, Sch.](#); s. 226 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538, art. 2\(1\)](#)

### <sup>F4</sup>226A Consumer credit jurisdiction

.....

#### Textual Amendments

**F4** S. 226A omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\), arts. 1\(2\)\(6\), 10\(5\)](#) (with [art. 11\(5\)\(6\)\(7\)](#))

### 227 Voluntary jurisdiction.

- (1) A complaint which relates to an act or omission of a person (“the respondent”) in carrying on an activity to which voluntary jurisdiction rules apply is to be dealt with under the ombudsman scheme if the conditions mentioned in subsection (2) are satisfied.
- (2) The conditions are that—
  - (a) the complainant is eligible and wishes to have the complaint dealt with under the scheme;
  - (b) at the time of the act or omission to which the complaint relates, the respondent was participating in the scheme;
  - (c) at the time when the complaint is referred under the scheme, the respondent has not withdrawn from the scheme in accordance with its provisions;
  - (d) the act or omission to which the complaint relates occurred at a time when voluntary jurisdiction rules were in force in relation to the activity in question; and
  - (e) the complaint cannot be dealt with under the compulsory jurisdiction <sup>F5</sup>....
- (3) “Voluntary jurisdiction rules” means rules—
  - (a) made by the scheme operator for the purposes of this section; and
  - (b) specifying the activities to which they apply.
- (4) The only activities which may be specified in the rules are activities which are, or could be, specified in compulsory jurisdiction rules.
- (5) Activities may be specified by reference to specified categories (however described).
- (6) The rules require the [<sup>F6</sup>FCA's] approval.
- (7) A complainant is eligible, in relation to the voluntary jurisdiction of the ombudsman scheme, if he falls within a class of person specified in the rules as eligible.
- (8) The rules may include provision for persons other than individuals to be eligible.

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- (9) A person qualifies for participation in the ombudsman scheme if he falls within a class of person specified in the rules in relation to the activity in question.
- (10) Provision may be made in the rules for persons other than authorised persons to participate in the ombudsman scheme.
- (11) The rules may make different provision in relation to complaints arising from different activities.
- (12) The jurisdiction of the scheme which results from this section is referred to in this Act as the “voluntary jurisdiction”.
- (13) In such circumstances as may be specified in voluntary jurisdiction rules, a complaint—
- (a) which relates to an act or omission occurring at a time before the rules came into force, and
  - (b) which could have been dealt with under a scheme which has to any extent been replaced by the voluntary jurisdiction,
- is to be dealt with under the ombudsman scheme even though paragraph (b) or (d) of subsection (2) would otherwise prevent that.
- (14) In such circumstances as may be specified in voluntary jurisdiction rules, a complaint is to be dealt with under the ombudsman scheme even though—
- (a) paragraph (b) or (d) of subsection (2) would otherwise prevent that, and
  - (b) the complaint is not brought within the scheme as a result of subsection (13), but only if the respondent has agreed that complaints of that kind were to be dealt with under the scheme.

#### Textual Amendments

- F5** Words in s. 227(2)(e) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(6)**
- F6** Word in s. 227(6) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 3** (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

- C8** S. 227(2) modified (7.10.2008 at 9.30 a.m.) by The Heritable Bank plc [Transfer of Certain Rights and Liabilities Order 2008 \(S.I. 2008/2644\)](#), **art. 25**

#### Commencement Information

- I2** S. 227 wholly in force at 1.12.2001; s. 227 not in force at Royal Assent see s. 431(2); s. 227 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, [Sch.](#); s. 227 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

### *Determination of complaints*

#### **228 Determination under the compulsory jurisdiction.**

- (1) This section applies only in relation to the compulsory jurisdiction <sup>F7</sup>....

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- (2) A complaint is to be determined by reference to what is, in the opinion of the ombudsman, fair and reasonable in all the circumstances of the case.
- (3) When the ombudsman has determined a complaint he must give a written statement of his determination to the respondent and to the complainant.
- (4) The statement must—
  - (a) give the ombudsman’s reasons for his determination;
  - (b) be signed by him; and
  - (c) require the complainant to notify him <sup>F8</sup>..., before a date specified in the statement, whether he accepts or rejects the determination.
- (5) If the complainant notifies the ombudsman that he accepts the determination, it is binding on the respondent and the complainant and final.
- (6) If, by the specified date, the complainant has not notified the ombudsman of his acceptance or rejection of the determination he is to be treated as having rejected it.
- [<sup>F9</sup>(6A) But the complainant is not to be treated as having rejected the determination by virtue of subsection (6) if—
  - (a) the complainant notifies the ombudsman after the specified date of the complainant's acceptance of the determination,
  - (b) the complainant has not previously notified the ombudsman of the complainant's rejection of the determination, and
  - (c) the ombudsman is satisfied that such conditions as may be prescribed by rules made by the scheme operator for the purposes of this section are satisfied.]
  - (7) The ombudsman must notify the respondent of the outcome.
  - [<sup>F10</sup>(7A) Where a determination is rejected by virtue of subsection (6), the notification under subsection (7) must contain a general description of the effect of subsection (6A).]
  - (8) A copy of the determination on which appears a certificate signed by an ombudsman is evidence (or in Scotland sufficient evidence) that the determination was made under the scheme.
  - (9) Such a certificate purporting to be signed by an ombudsman is to be taken to have been duly signed unless the contrary is shown.

#### Textual Amendments

- F7** Words in s. 228(1) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(7)**
- F8** Words in s. 228(4)(c) omitted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by virtue of [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 4(2)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F9** S. 228(6A) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 4(3)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F10** S. 228(7A) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 4(4)** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)

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#### **Modifications etc. (not altering text)**

- C9** S. 228 applied (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b)**, 6(11), 7(1); S.I. 2001/3538, **art. 2(1)**
- C10** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by The Financial Services and Markets Act 2000 (Transitional Provisions) (Complaints Relating to General Insurance and Mortgages) Order 2004 (S.I. 2004/454), arts. 1(2), **5**
- C11** S. 228(2) excluded (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b)**, 6(1)(a); S.I. 2001/3538, **art. 2(1)**
- C12** S. 228(4)(c)(5)-(7) excluded (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b)**, 6(7)(8)(9); S.I. 2001/3538, **art. 2(1)**

## **229 Awards.**

- (1) This section applies only in relation to the compulsory jurisdiction <sup>F11</sup>....
  - (2) If a complaint which has been dealt with under the scheme is determined in favour of the complainant, the determination may include—
    - (a) an award against the respondent of such amount as the ombudsman considers fair compensation for loss or damage (of a kind falling within subsection (3)) suffered by the complainant (“a money award”);
    - (b) a direction that the respondent take such steps in relation to the complainant as the ombudsman considers just and appropriate (whether or not a court could order those steps to be taken).
  - (3) A money award may compensate for—
    - (a) financial loss; or
    - (b) any other loss, or any damage, of a specified kind.
  - (4) The [<sup>F12</sup>FCA] may specify [<sup>F13</sup>for the purposes of the compulsory jurisdiction] the maximum amount which may be regarded as fair compensation for a particular kind of loss or damage specified under subsection (3)(b).
- <sup>F14</sup>(4A) .....
- (5) A money award may not exceed the monetary limit; but the ombudsman may, if he considers that fair compensation requires payment of a larger amount, recommend that the respondent pay the complainant the balance.
  - (6) The monetary limit is such amount as may be specified.
  - (7) Different amounts may be specified in relation to different kinds of complaint.
  - (8) A money award—
    - (a) may provide for the amount payable under the award to bear interest at a rate and as from a date specified in the award; and
    - (b) is enforceable by the complainant in accordance with Part III of Schedule 17 <sup>F15</sup>....
  - (9) Compliance with a direction under subsection (2)(b)—
    - (a) is enforceable by an injunction; or
    - (b) in Scotland, is enforceable by an order under section 45 of the <sup>M1</sup>Court of Session Act 1988.
  - (10) Only the complainant may bring proceedings for an injunction or proceedings for an order.

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[<sup>F16</sup>(11) “Specified” means specified in compulsory jurisdiction rules.]

<sup>F17</sup>(12) . . . . .

#### Textual Amendments

- F11** Words in s. 229(1) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(8)(a)**
- F12** Word in s. 229(4) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 5** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F13** Words in s. 229(4) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), **ss. 61(4)**, 71(2); [S.I. 2006/1508](#), **art. 3(1)**, [Sch. 1](#)
- F14** S. 229(4A) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(8)(b)**
- F15** Words in s. 229(8)(b) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(8)(c)**
- F16** S. 229(11) substituted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(8)(d)**
- F17** S. 229(12) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(8)(e)**

#### Modifications etc. (not altering text)

- C13** S. 229 applied (1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1)(b)**, 7(1); [S.I. 2001/3538](#), **art. 2(1)**  
S. 229 restricted (1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1)(b)**, 6(1)(b)(4)(5); [S.I. 2001/3538](#), **art. 2(1)**
- C14** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), **5**
- C15** S. 229(8)(b) applied (1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1)(b)**, 6(4); [S.I. 2001/3538](#), **art. 2(1)**
- C16** S. 229(9)(10) applied (1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1)(b)**, 6(5); [S.I. 2001/3538](#), **art. 2(1)**

#### Commencement Information

- I3** S. 229 wholly in force at 1.12.2001; s. 229 not in force at Royal Assent see s. 431(2); s. 229 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), **art. 2**, **Sch.**; s. 229 in force in so far as not already in force at 1.12.2001 by [S.I. 2001/3538](#), **art. 2(1)**

#### Marginal Citations

- M1** [1988 c. 36](#).

## 230 Costs.

- (1) The scheme operator may by rules (“costs rules”) provide for an ombudsman to have power, on determining a complaint under the compulsory jurisdiction <sup>F18</sup>..., to award costs in accordance with the provisions of the rules.
- (2) Costs rules require the approval of the [<sup>F19</sup>FCA].

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- (3) Costs rules may not provide for the making of an award against the complainant in respect of the respondent's costs.
- (4) But they may provide for the making of an award against the complainant in favour of the scheme operator, for the purpose of providing a contribution to resources deployed in dealing with the complaint, if in the opinion of the ombudsman—
  - (a) the complainant's conduct was improper or unreasonable; or
  - (b) the complainant was responsible for an unreasonable delay.
- (5) Costs rules may authorise an ombudsman making an award in accordance with the rules to order that the amount payable under the award bears interest at a rate and as from a date specified in the order.
- (6) An amount due under an award made in favour of the scheme operator is recoverable as a debt due to the scheme operator.
- (7) Any other award made against the respondent is to be treated as a money award for the purposes of paragraph 16 of Schedule 17 <sup>F20</sup>....

#### Textual Amendments

- F18** Words in s. 230(1) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(9)(a)**
- F19** Word in s. 230(2) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 6** (with [Sch. 20](#)); [S.I. 2013/113](#), art. 2(1)(c), [Sch. Pt. 3](#); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F20** Words in s. 230(7) omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **10(9)(b)**

#### Modifications etc. (not altering text)

- C17** S. 230 applied (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1), 7(1)**; [S.I. 2001/3538](#), **art. 2(1)**  
S. 230 restricted (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1), 6(1)(c)**; [S.I. 2001/3538](#), **art. 2(1)**
- C18** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), **5**
- C19** S. 230(6)(7) applied (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), **arts. 1(1), 6(6)**; [S.I. 2001/3538](#), **art. 2(1)**

#### <sup>F21</sup> 230A Reports of determinations

- (1) The scheme operator must publish a report of any determination made under this Part.
- (2) But if the ombudsman who makes the determination informs the scheme operator that, in the ombudsman's opinion, it is inappropriate to publish a report of that determination (or any part of it) the scheme operator must not publish a report of that determination (or that part).



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- (3) Unless the complainant agrees, a report of a determination published by the scheme operator may not include the name of the complainant, or particulars which, in the opinion of the scheme operator, are likely to identify the complainant.
- (4) The scheme operator may charge a reasonable fee for providing a person with a copy of a report.]

#### Textual Amendments

**F21** S. 230A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 11 para. 7 \(with Sch. 20\); S.I. 2013/113, art. 2\(1\)\(c\), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.](#)

### Information

#### 231 Ombudsman’s power to require information.

- (1) An ombudsman may, by notice in writing given to a party to a complaint, require that party—
  - (a) to provide specified information or information of a specified description; or
  - (b) to produce specified documents or documents of a specified description.
- (2) The information or documents must be provided or produced—
  - (a) before the end of such reasonable period as may be specified; and
  - (b) in the case of information, in such manner or form as may be specified.
- (3) This section applies only to information and documents the production of which the ombudsman considers necessary for the determination of the complaint.
- (4) If a document is produced in response to a requirement imposed under this section, the ombudsman may—
  - (a) take copies or extracts from the document; or
  - (b) require the person producing the document to provide an explanation of the document.
- (5) If a person who is required under this section to produce a document fails to do so, the ombudsman may require him to state, to the best of his knowledge and belief, where the document is.
- (6) If a person claims a lien on a document, its production under this Part does not affect the lien.
- (7) “Specified” means specified in the notice given under subsection (1).

#### Modifications etc. (not altering text)

**C20** S. 231 applied (1.12.2001) by [S.I. 2001/2326, arts. 1\(1\)\(b\), 11\(5\); S.I. 2001/3538, art. 2\(1\)](#)  
**C21** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\), arts. 1\(2\), 5](#)

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S. 231 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), **11(5)**

## 232 Powers of court where information required.

- (1) If a person (“the defaulter”) fails to comply with a requirement imposed under section 231, the ombudsman may certify that fact in writing to the court and the court may enquire into the case.
- (2) If the court is satisfied that the defaulter failed without reasonable excuse to comply with the requirement, it may deal with the defaulter (and, in the case of a body corporate, any director or [<sup>F22</sup>other] officer) as if he were in contempt [<sup>F23</sup>; and “officer”, in relation to a limited liability partnership, means a member of the limited liability partnership.].
- (3) “Court” means—
  - (a) the High Court;
  - (b) in Scotland, the Court of Session.

### Textual Amendments

- F22** Word in s. 232(2) inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 8** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.
- F23** Words in s. 232(2) inserted (6.4.2001 for E.W.S and 13.9.2004 for N.I.) by S.I. 2001/1090, regs. 1, 9, Sch. 5 para. 21; S.R. 2004/307, reg. 9, **Sch. 4 para. 17**

### Modifications etc. (not altering text)

- C22** S. 232 applied (1.12.2001) by S.I. 2001/2326, **arts. 1(1)(b)**, 11(5); S.I. 2001/3538, **art. 2(1)**
- C23** Ss. 228-232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), **5**
- S. 232 applied (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), **11(5)**

## [<sup>F24</sup>232A] Scheme operator's duty to provide information to FCA

If the scheme operator considers that it has information that, in its opinion, would or might be of assistance to the FCA in advancing one or more of the FCA's operational objectives, it must disclose that information to the FCA.]

### Textual Amendments

- F24** S. 232A inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 11 para. 9** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

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### 233 Data protection.

In section 31 of the <sup>M2</sup>Data Protection Act 1998 (regulatory activity), after subsection (4), insert—

“(4A) Personal data processed for the purpose of discharging any function which is conferred by or under Part XVI of the Financial Services and Markets Act 2000 on the body established by the Financial Services Authority for the purposes of that Part are exempt from the subject information provisions in any case to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of the function.”

#### Marginal Citations

M2 1998 c. 29.

### Funding

### 234 Industry funding.

(1) For the purpose of funding—

- (a) the establishment of the ombudsman scheme (whenever any relevant expense is incurred), and
- (b) its operation in relation to the compulsory jurisdiction,

the [<sup>F25</sup>FCA] may make rules requiring the payment to it or to the scheme operator, by authorised persons or any class of authorised person [<sup>F26</sup>, any electronic money issuer within the meaning of the Electronic Money Regulations 2011][<sup>F27</sup>or any payment service provider within the meaning of the Payment Services Regulations 2009] of specified amounts (or amounts calculated in a specified way).

(2) “Specified” means specified in the rules.

#### Textual Amendments

- F25** Word in s. 234(1) substituted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 11 para. 10](#) (with [Sch. 20](#)); S.I. 2013/113, art. 2(1)(c), [Sch. Pt. 3](#); S.I. 2013/423, art. 3, [Sch.](#)
- F26** Words in s. 234(1) inserted (9.2.2011 for certain purposes and 30.4.2011 otherwise) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), regs. 1(2)(a)(xv)(b), 79, [Sch. 4 para. 2\(3\)\(b\)](#) (with [reg. 3](#))
- F27** Words in s. 234(1) inserted (2.3.2009 for certain purposes, 1.5.2009 for certain further purposes and 1.11.2009 otherwise) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), regs. 1(2), 126, [Sch. 6 para. 1\(1\)\(b\)](#) (with [reg. 3](#))

#### Modifications etc. (not altering text)

- C24** S. 234(1) amended (1.12.2001) by S.I. 2001/2326, [arts. 1\(1\)\(b\)](#), 12(1); S.I. 2001/3538, [art. 2\(1\)](#)
- C25** S. 234(1) extended (31.10.2004 for certain purposes and 14.1.2005 otherwise) by [The Financial Services and Markets Act 2000 \(Transitional Provisions\) \(Complaints Relating to General Insurance and Mortgages\) Order 2004 \(S.I. 2004/454\)](#), arts. 1(2), [6\(1\)](#)

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## <sup>F28</sup> 234A Funding by consumer credit licensees etc.

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### Textual Amendments

**F28** S. 234A omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013](#) (S.I. 2013/1881), arts. 1(2)(6), **10(10)** (with art. 11(9))

### <sup>F29</sup> Successors to businesses

### Textual Amendments

**F29** S. 234B and cross-heading inserted (24.1.2013 for specified purposes, 1.4.2013 in so far as not already in force) by [Financial Services Act 2012](#) (c. 21), s. 122(3), **Sch. 11 para. 12** (with Sch. 20); S.I. 2013/113, art. 2(1)(c), Sch. Pt. 3; S.I. 2013/423, art. 3, Sch.

## 234B Transfers of liability

- (1) This section applies where a person (the “successor”) has assumed a liability (including a contingent one) of a person (the “predecessor”) who was, or (apart from this section) would have been, the respondent in respect of a complaint falling to be dealt with under the ombudsman scheme.
- (2) The complaint may (but need not) be dealt with under this Part as if the successor were the respondent.]

**Status:**

Point in time view as at 21/04/2016.

**Changes to legislation:**

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