



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVI

#### THE OMBUDSMAN SCHEME

##### *Determination of complaints*

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

- (1) This section applies only in relation to the compulsory jurisdiction <sup>F1</sup>....
  - (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>F2</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>F3</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

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- (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>F4</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

- F1** 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)**
- F2** 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.](#)
- F3** 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.](#)
- F4** 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.](#)

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

- C1** 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)**
- C2** 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**
- C3** S. 228 applied (with modifications) (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), **72(3)**
- C4** Ss. 228-230A applied (with modifications) (28.1.2021 for specified purposes, 30.7.2022 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2021 \(S.I. 2021/90\)](#), arts. 1(2)(3), **9**
- C5** 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)**
- C6** S. 228(2) applied (with modifications) (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), **73(3)-(5)**
- C7** 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>F5</sup>....

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- (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>F6</sup>FCA] may specify [<sup>F7</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>F8</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>F9</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.

[<sup>F10</sup>(11) “Specified” means specified in compulsory jurisdiction rules.]

<sup>F11</sup>(12) .....

#### Textual Amendments

- F5** 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)**
- F6** 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.](#)

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- F7** 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
- F8** 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)**
- F9** 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)**
- F10** 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)**
- F11** 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)

- C4** Ss. 228-230A applied (with modifications) (28.1.2021 for specified purposes, 30.7.2022 in so far as not already in force) by The Financial Services and Markets Act 2000 (Regulated Activities) (Amendment) Order 2021 (S.I. 2021/90), arts. 1(2)(3), **9**
- C8** 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)**
- C9** 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**
- C10** S. 229(2)(a)(b) applied (with modifications) (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by The Financial Services and Markets Act 2000 (Claims Management Activity) Order 2018 (S.I. 2018/1253), arts. 1(2)(3), **73(3)-(5)**
- C11** 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)**
- C12** 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

- II** 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>F12</sup>..., to award costs in accordance with the provisions of the rules.
- (2) Costs rules require the approval of the [F13FCA].
- (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

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- (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>F14</sup>....

#### Textual Amendments

- F12** 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)**
- F13** 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.
- F14** 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)

- C4** [Ss. 228-230A](#) applied (with modifications) (28.1.2021 for specified purposes, 30.7.2022 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) Order 2021 \(S.I. 2021/90\)](#), arts. 1(2)(3), **9**
- C13** [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)**
- 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. 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)**
- C16** [S. 230\(7\)](#) applied (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), **72(5)(b)**

#### <sup>F15</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).
- (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.

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- (4) The scheme operator may charge a reasonable fee for providing a person with a copy of a report.]

**Textual Amendments**

- F15** 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.](#)

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

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- C17** S. 230A applied (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), **79(1)**
- C18** S. 230A applied (with modifications) (E.W.S.) (29.11.2018 for specified purposes, 1.4.2019 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Claims Management Activity\) Order 2018 \(S.I. 2018/1253\)](#), arts. 1(2)(3), **72(3)**

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2023/1347 reg. 8](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp. until 15.5.2039) by [2014 c. 21 s. 81\(10\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Pt. 17 Ch. 3B inserted by [2023 c. 29 s. 64\(3\)](#)
- Pt. 20C inserted by [2016 c. 14 s. 30\(3\)](#)
- s. 31(1)(aa) inserted by [2021 c. 22 s. 22\(2\)](#)
- s. 32A inserted by [2021 c. 22 s. 22\(3\)](#)
- s. 32A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- s. 36A and cross-heading inserted by [2021 c. 22 s. 22\(4\)](#)
- s. 71J and cross-heading inserted by [2021 c. 22 Sch. 8 para. 4](#)
- s. 86(9A) inserted by [S.I. 2019/707 reg. 8\(9\)](#) (This amendment not applied to legislation.gov.uk. Reg. 8(6)-(10) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 13(c))
- s. 87A(11) inserted by [S.I. 2019/707 reg. 10\(5\)](#) (This amendment not applied to legislation.gov.uk. Reg. 10(4)(5) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 15(b))
- s. 124(10)(c)(i) word omitted by [S.I. 2019/310 reg. 5\(11\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(11)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(e))
- s. 129(7)(a) word inserted by [S.I. 2019/310 reg. 5\(12\)\(a\)\(i\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 129(7)(c) omitted and word by [S.I. 2019/310 reg. 5\(12\)\(a\)\(ii\)](#) (This amendment not applied to legislation.gov.uk. Reg. 5(12)(a)(b) omitted immediately before IP completion day by virtue of S.I. 2020/1385, regs. 1(4), 51(2)(f))
- s. 214(5A) inserted by [2021 c. 22 Sch. 8 para. 8](#)
- s. 261E(A1) inserted by [2023 c. 29 s. 64\(2\)\(a\)](#)
- s. 367A inserted by [2021 c. 22 Sch. 8 para. 10](#)
- s. 395(13)(h)(i) inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(c\)](#)
- s. 395(13)(bc)-(be) word inserted by [2021 c. 22 Sch. 8 para. 12\(2\)\(b\)](#)
- s. 395(14) inserted by [2021 c. 22 Sch. 8 para. 12\(3\)](#)
- s. 427A(3) words substituted by [2002 c. 40 Sch. 17 para. 59](#) (This amendment not applied to legislation.gov.uk. The Financial Services and Markets Act 2000 does not contain a section 427A.)
- Sch. 1ZA para. 32(c) and word inserted by [2021 c. 22 Sch. 8 para. 18](#)
- Sch. 2A para. 19(2)(b)(iia) inserted by [2023 c. 29 Sch. 10 para. 19\(a\)](#)
- Sch. 2A2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2A power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 2B inserted by [2021 c. 22 Sch. 7](#)
- Sch. 2B power to apply (with modifications) conferred by [2021 c. 22 s. 23\(10\)](#)
- Sch. 11A para. 5(3) inserted by [S.I. 2019/707 reg. 38\(5\)\(b\)](#) (This amendment not applied to legislation.gov.uk. Reg. 38(2)-(5)(7)(8) omitted (6.9.2019) by virtue of S.I. 2019/1234, regs. 1(2), 20)

- Sch. 17A para. 12 words substituted by [S.I. 2019/662 reg. 13\(1\)](#) (This amendment not applied to [legislation.gov.uk](#). Reg. 13(1) substituted (25.6.2020) by S.I. 2020/646, regs. 1(2)(c), 11(3))