



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XVI

#### THE OMBUDSMAN SCHEME

##### *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.

#### **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

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- Regulations [<sup>F3</sup>2017],] 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>F4</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).
- [<sup>F5</sup>(5A) If the FCA specifies activities which are account information services provided by authorised payment institutions or EEA authorised payment institutions, the FCA must specify to the same extent account information services provided by registered account information service providers or, as the case may be, EEA registered account information service providers.
- (5B) Expressions used in subsection (5A) and in the Payments Services Regulations 2017 have the same meaning in that subsection as they do in those Regulations.]
- (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.
- [<sup>F6</sup>(7A) The rules must provide that a person within subsection (7B) is eligible in relation to a complaint to which subsection (7C) applies.
- (7B) A person is within this subsection if he or she has been identified by a respondent, in carrying on an activity to which the rules apply, as—
- (a) a politically exposed person;
  - (b) a family member of a politically exposed person; or
  - (c) a known close associate of a politically exposed person.
- (7C) This subsection applies to a complaint—
- (a) that the complainant has been incorrectly identified as a person within subsection (7B); or
  - (b) relating to an act or omission of the respondent in consequence of the identification of the complainant as a person within subsection (7B).
- (7D) In subsection (7B), “politically exposed person”, “family member” and “known close associate” have the meanings given in regulation 35(12) of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017.]
- (8) The jurisdiction of the scheme which results from this section is referred to in this Act as the “compulsory jurisdiction”.

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#### 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(2)(b) substituted (13.1.2018) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(6), **Sch. 8 para. 2(4)(a)** (with reg. 3)
- F4** 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.
- F5** [S. 226\(5A\)\(5B\)](#) inserted (13.1.2018) by [The Payment Services Regulations 2017 \(S.I. 2017/752\)](#), reg. 1(6), **Sch. 8 para. 2(4)(b)** (with reg. 3)
- F6** [S. 226\(7A\)-\(7D\)](#) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 3(2)** (with regs. 8, 15)

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

- C1** [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)**
- C2** [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

- I1** [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>F7</sup>226A Consumer credit jurisdiction

.....

#### Textual Amendments

- F7** [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;

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- (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>F8</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>F9</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.
- (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.

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#### **Textual Amendments**

- F8** 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)**
- F9** 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)**

- C3** 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)**

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