

*Status: Point in time view as at 06/12/2006.*

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## SCHEDULES

### SCHEDULE 17

#### THE OMBUDSMAN SCHEME

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

- C1** Sch. 17 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)
- C1** Sch. 17 applied (30.4.2011) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), **reg. 76(2)** (with reg. 3)

#### PART II

##### THE SCHEME OPERATOR

###### *Establishment by the Authority*

- 2
- (1) The Authority must establish a body corporate to exercise the functions conferred on the scheme operator by or under this Act.
  - (2) The Authority must take such steps as are necessary to ensure that the scheme operator is, at all times, capable of exercising those functions.

###### *Constitution*

- 3
- (1) The constitution of the scheme operator must provide for it to have—
    - (a) a chairman; and
    - (b) a board (which must include the chairman) whose members are the scheme operator's directors.
  - (2) The chairman and other members of the board must be persons appointed, and liable to removal from office, by the Authority (acting, in the case of the chairman, with the approval of the Treasury).
  - (3) But the terms of their appointment (and in particular those governing removal from office) must be such as to secure their independence from the Authority in the operation of the scheme.
  - (4) The function of making voluntary jurisdiction rules under section 227 <sup>[F1]</sup>, the function of making consumer credit rules, the function of making determinations under section 234A(1)] and the functions conferred by paragraphs 4, 5, 7, 9 or 14 may be exercised only by the board.
  - (5) The validity of any act of the scheme operator is unaffected by—
    - (a) a vacancy in the office of chairman; or

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- (b) a defect in the appointment of a person as chairman or as a member of the board.

#### Textual Amendments

- F1** Words in Sch. 17 para. 3(4) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(10)(a), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1

#### *The panel of ombudsmen*

- 4 (1) The scheme operator must appoint and maintain a panel of persons, appearing to it to have appropriate qualifications and experience, to act as ombudsmen for the purposes of the scheme.
- (2) A person's appointment to the panel is to be on such terms (including terms as to the duration and termination of his appointment and as to remuneration) as the scheme operator considers—
- (a) consistent with the independence of the person appointed; and
  - (b) otherwise appropriate.

#### *The Chief Ombudsman*

- 5 (1) The scheme operator must appoint one member of the panel to act as Chief Ombudsman.
- (2) The Chief Ombudsman is to be appointed on such terms (including terms as to the duration and termination of his appointment) as the scheme operator considers appropriate.

#### *Status*

- 6 (1) The scheme operator is not to be regarded as exercising functions on behalf of the Crown.
- (2) The scheme operator's board members, officers and staff are not to be regarded as Crown servants.
- (3) Appointment as Chief Ombudsman or to the panel or as a deputy ombudsman does not confer the status of Crown servant.

#### *Annual reports*

- 7 (1) At least once a year—
- (a) the scheme operator must make a report to the Authority on the discharge of its functions; and
  - (b) the Chief Ombudsman must make a report to the Authority on the discharge of his functions.
- (2) Each report must distinguish between functions in relation to the scheme's compulsory jurisdiction [<sup>F2</sup>, functions in relation to its consumer credit jurisdiction] and functions in relation to its voluntary jurisdiction.

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- (3) Each report must also comply with any requirements specified in rules made by the Authority.
- (4) The scheme operator must publish each report in the way it considers appropriate.

#### Textual Amendments

**F2** Words in Sch. 17 para. 7(2) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(10)(b), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1

#### Guidance

- 8 The scheme operator may publish guidance consisting of such information and advice as it considers appropriate and may charge for it or distribute it free of charge.

#### Budget

- 9 (1) The scheme operator must, before the start of each of its financial years, adopt an annual budget which has been approved by the Authority.
- (2) The scheme operator may, with the approval of the Authority, vary the budget for a financial year at any time after its adoption.
- (3) The annual budget must include an indication of—
- (a) the distribution of resources deployed in the operation of the scheme, and
  - (b) the amounts of income of the scheme operator arising or expected to arise from the operation of the scheme,
- distinguishing between the scheme's compulsory [<sup>F3</sup>, consumer credit] and voluntary jurisdiction.

#### Textual Amendments

**F3** Words in Sch. 17 para. 9(3) inserted (16.6.2006) by Consumer Credit Act 2006 (c. 14), ss. 61(10)(c), 71(2); S.I. 2006/1508, art. 3(1), Sch. 1

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

**C1** Sch. 17 para. 9(3) excluded (18.6.2001) by S.I. 2001/1821, arts. 1(1), 4(1)

#### Exemption from liability in damages

- 10 (1) No person is to be liable in damages for anything done or omitted in the discharge, or purported discharge, of any functions under this Act in relation to the compulsory jurisdiction [<sup>F4</sup> or to the consumer credit jurisdiction].
- (2) Sub-paragraph (1) does not apply—
- (a) if the act or omission is shown to have been in bad faith; or
  - (b) so as to prevent an award of damages made in respect of an act or omission on the ground that the act or omission was unlawful as a result of section 6(1) of the <sup>M1</sup>Human Rights Act 1998.

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#### Textual Amendments

- F4** Words in Sch. 17 para. 10(1) inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), [ss. 61\(10\)\(d\)](#), [71\(2\)](#); S.I. 2006/1508, [art. 3\(1\)](#), Sch. 1

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

- C2** Sch. 17 para. 10(1) amended (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)](#), [13](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C3** Sch. 17 para. 10(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\(2\)](#), [7](#)

#### Marginal Citations

- M1** 1998 c. 42.

### *Privilege*

- 11 For the purposes of the law relating to defamation, proceedings in relation to a complaint which is subject to the compulsory jurisdiction [<sup>F5</sup>or to the consumer credit jurisdiction] are to be treated as if they were proceedings before a court.

#### Textual Amendments

- F5** Words in Sch. 17 para. 11 inserted (16.6.2006) by [Consumer Credit Act 2006 \(c. 14\)](#), [ss. 61\(10\)\(d\)](#), [71\(2\)](#); S.I. 2006/1508, [art. 3\(1\)](#), Sch. 1

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

- C4** Sch. 17 para. 11 amended (19.7.2001 for specified purposes otherwise 1.12.2001) by [S.I. 2001/2326](#), [arts. 1\(1\)](#), [14](#); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C5** Sch. 17 para. 11 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\(2\)](#), [8](#)

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