
STATUTORY INSTRUMENTS

2018 No. 1253

The Financial Services and Markets Act 2000
(Claims Management Activity) Order 2018

PART 3

Transitional provisions

CHAPTER 4

Complaints: the Legal Ombudsman and the Financial Ombudsman Service

Determination of relevant new complaints

73.—(1) In this article, except for the references in paragraph (5) to section 137 of the 2007 Act, a reference to a numbered section is a reference to the section so numbered in the 2000 Act.

(2) Subject to paragraphs (3) to (5), a relevant new complaint is to be determined by reference to the criteria applicable to the determination of any other complaint referred under the new scheme.

(3) The provisions specified in paragraph (4) apply in relation to a relevant new complaint with the modifications in paragraph (5).

(4) Paragraph (5) applies for the purposes of determining, in relation to a relevant new complaint—

- (a) under section 228(2), what is fair and reasonable in all the circumstances of the case;
- (b) under section 229(2)(a), what amount, if any, constitutes fair compensation for loss or damage suffered by the complainant; and
- (c) under section 229(2)(b), what steps would be just and appropriate in any direction under that section.

(5) An ombudsman may take into account—

- (a) what an ombudsman determining the complaint under the former scheme might reasonably have considered fair and reasonable in all the circumstances of the case;
- (b) what amount an ombudsman determining the complaint under the former scheme might reasonably have directed the respondent to pay under section 137(2)(c) of the 2007 Act; and
- (c) what other steps an ombudsman determining the complaint under the former scheme might reasonably have directed the respondent to take under section 137(2) of the 2007 Act.