

SCHEDULES

SCHEDULE 17

THE OMBUDSMAN SCHEME

PART III

THE COMPULSORY JURISDICTION

Introduction

- 12 This Part of this Schedule applies only in relation to the compulsory jurisdiction.

Authority's procedural rules

- 13 (1) The Authority must make rules providing that a complaint is not to be entertained unless the complainant has referred it under the ombudsman scheme before the applicable time limit (determined in accordance with the rules) has expired.
- (2) The rules may provide that an ombudsman may extend that time limit in specified circumstances.
- (3) The Authority may make rules providing that a complaint is not to be entertained (except in specified circumstances) if the complainant has not previously communicated its substance to the respondent and given him a reasonable opportunity to deal with it.
- (4) The Authority may make rules requiring an authorised person who may become subject to the compulsory jurisdiction as a respondent to establish such procedures as the Authority considers appropriate for the resolution of complaints which—
- (a) may be referred to the scheme; and
 - (b) arise out of activity to which the Authority's powers under Part X do not apply.

The scheme operator's rules

- 14 (1) The scheme operator must make rules, to be known as “scheme rules”, which are to set out the procedure for reference of complaints and for their investigation, consideration and determination by an ombudsman.
- (2) Scheme rules may, among other things—
- (a) specify matters which are to be taken into account in determining whether an act or omission was fair and reasonable;
 - (b) provide that a complaint may, in specified circumstances, be dismissed without consideration of its merits;

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- (c) provide for the reference of a complaint, in specified circumstances and with the consent of the complainant, to another body with a view to its being determined by that body instead of by an ombudsman;
 - (d) make provision as to the evidence which may be required or admitted, the extent to which it should be oral or written and the consequences of a person's failure to produce any information or document which he has been required (under section 231 or otherwise) to produce;
 - (e) allow an ombudsman to fix time limits for any aspect of the proceedings and to extend a time limit;
 - (f) provide for certain things in relation to the reference, investigation or consideration (but not determination) of a complaint to be done by a member of the scheme operator's staff instead of by an ombudsman;
 - (g) make different provision in relation to different kinds of complaint.
- (3) The circumstances specified under sub-paragraph (2)(b) may include the following—
- (a) the ombudsman considers the complaint frivolous or vexatious;
 - (b) legal proceedings have been brought concerning the subject-matter of the complaint and the ombudsman considers that the complaint is best dealt with in those proceedings; or
 - (c) the ombudsman is satisfied that there are other compelling reasons why it is inappropriate for the complaint to be dealt with under the ombudsman scheme.
- (4) If the scheme operator proposes to make any scheme rules it must publish a draft of the proposed rules in the way appearing to it to be best calculated to bring them to the attention of persons appearing to it to be likely to be affected.
- (5) The draft must be accompanied by a statement that representations about the proposals may be made to the scheme operator within a time specified in the statement.
- (6) Before making the proposed scheme rules, the scheme operator must have regard to any representations made to it under sub-paragraph (5).
- (7) The consent of the Authority is required before any scheme rules may be made.

Fees

- 15 (1) Scheme rules may require a respondent to pay to the scheme operator such fees as may be specified in the rules.
- (2) The rules may, among other things—
- (a) provide for the scheme operator to reduce or waive a fee in a particular case;
 - (b) set different fees for different stages of the proceedings on a complaint;
 - (c) provide for fees to be refunded in specified circumstances;
 - (d) make different provision for different kinds of complaint.

Enforcement of money awards

- 16 A money award, including interest, which has been registered in accordance with scheme rules may—

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- (a) if a county court so orders in England and Wales, be recovered by execution issued from the county court (or otherwise) as if it were payable under an order of that court;
- (b) be enforced in Northern Ireland as a money judgment under the Judgments Enforcement (Northern Ireland) Order 1981;
- (c) be enforced in Scotland by the sheriff, as if it were a judgment or order of the sheriff and whether or not the sheriff could himself have granted such judgment or order.