

# Mortgages and Home Finance: Conduct of Business Sourcebook

## Schedule 5 Rights of action for damages

### Sch 5.1 G

The table below sets out the *rules* in *MCOB* contravention of which by an *authorised person* may be actionable under Section 138D of the *Act* (Actions for damages) by a *person* who suffers loss as a result of the contravention.

If a "Yes" appears in the column headed "For private person?", the *rule* may be actionable by a *private person* under Section 138D (or, in certain circumstances, his fiduciary or representative; see article 6(2) and (3)(c) of the Financial Services and Markets Act 2000 (Rights of Action) Regulations 2001 (SI 2001/2256)). A "Yes" in the column headed "Removed" indicates that the *FCA* has removed the right of action under Section 138D(3) of the *Act*. If so, a reference to the *rule* in which it is removed is also given.

The column headed "For other person?" indicates whether the *rule* may be actionable by a *person* other than a *private person* (or his fiduciary or representative) under article 6(2) and (3) of those Regulations. If so, an indication of the type of *person* by whom the *rule* may be actionable is given.

### Sch 5.2 G

Chapter / Appendix	Section / Annex	Paragraph	Right of action under section 138D			
			For private person?	Removed?	For other person?	
All <i>rules</i> in <i>MCOB</i> with the status letter "E"			No	No	No	
Any <i>rule</i> in <i>MCOB</i> which prohibits an <i>authorised person</i> from seeking to make provision excluding or restricting any duty or liability			Yes	No	Yes	Any other <i>person</i>
All other <i>rules</i> in <i>MCOB</i>			Yes	No	No	

