



Financial Services Act 2012

2012 CHAPTER 21

PART 2

AMENDMENTS OF FINANCIAL SERVICES AND MARKETS ACT 2000

Hearings and appeals

23 Proceedings before Tribunal

- (1) Part 9 of FSMA 2000 (hearings and appeals) is amended as follows.
- (2) In section 133 (proceedings before Tribunal: general provision)—
 - (a) in subsection (1)(a), for “the Authority” substitute “ the FCA or the PRA ”,
 - (b) for subsections (5) and (6) substitute—
 - “(5) In the case of a disciplinary reference or a reference under section 393(11), the Tribunal—
 - (a) must determine what (if any) is the appropriate action for the decision-maker to take in relation to the matter; and
 - (b) on determining the reference, must remit the matter to the decision-maker with such directions (if any) as the Tribunal considers appropriate for giving effect to its determination.
 - (6) In any other case, the Tribunal must determine the reference or appeal by either—
 - (a) dismissing it; or
 - (b) remitting the matter to the decision-maker with a direction to reconsider and reach a decision in accordance with the findings of the Tribunal.
- (6A) The findings mentioned in subsection (6)(b) are limited to findings as to—
 - (a) issues of fact or law;

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- (b) the matters to be, or not to be, taken into account in making the decision; and
- (c) the procedural or other steps to be taken in connection with the making of the decision.”, and
- (c) after subsection (7) insert—
 - “(7A) A reference is a “disciplinary reference” for the purposes of this section if it is in respect of any of the following decisions—
 - (a) a decision to impose a penalty under section 63A;
 - (b) a decision to take action under section 66;
 - (c) a decision to take action under section 87M;
 - (d) a decision to take action under section 88A;
 - (e) a decision to take action under section 89K;
 - (f) a decision to take action under section 89Q;
 - (g) a decision to take action under section 91;
 - (h) a decision to take action under section 123;
 - (i) a decision to take action under section 131G;
 - (j) a decision to take action under section 192K;
 - (k) a decision to publish a statement under section 205, impose a penalty under section 206 or suspend a permission or impose a restriction under section 206A;
 - (l) a decision to take action under section 249;
 - (m) a decision to publish a statement under section 312E or impose a penalty under section 312F;
 - (n) a decision to take action under section 345 or 345A.”
- (3) In section 133A (proceedings before Tribunal: decision and supervisory notices, etc)
 - (a) in subsection (1)—
 - (i) after “determining” insert “ in accordance with section 133(5) ”, and
 - (ii) for the words from “given by the Authority” to “the Authority would” substitute “ given by a body, the Tribunal may not direct the body to take action which it would ”,
 - (b) omit subsections (2) and (3),
 - (c) in subsection (4), for the words from the beginning to “a decision notice—” substitute “ The action specified in a decision notice must not be taken— ”, and
 - (d) in subsection (5)—
 - (i) for “the Authority” substitute “ the FCA or the PRA ”, and
 - (ii) for “the Authority's” substitute “ its ”.
- (4) In section 133B (offences), in subsection (1)(a), for “the Authority” substitute “ the FCA or the PRA ”.
- (5) In section 136 (funding of the legal assistance scheme), in subsections (1), (2), (6)(a), (7) (in both places) and (8), for “Authority” substitute “ FCA ”.

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Commencement Information

II [S. 23](#) in force at 1.4.2013 by [S.I. 2013/423](#), art. 3, [Sch.](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act power to apply conferred (temp.) by [2014 c. 21 s. 79\(4\)](#)
- Act power to apply conferred (temp.) by [2014 c. 21 s. 81\(10\)](#)