
STATUTORY INSTRUMENTS

2001 No. 2476

The Financial Services and Markets Tribunal Rules 2001

PART V

GENERAL

Miscellaneous powers of Tribunal

26.—(1) Any functions of the Secretary may be performed by an Assistant Secretary to the Tribunal or by some other member of the Tribunal staff authorised for the purpose by the Secretary.

(2) Subject to the provisions of the Act and these Rules, the Tribunal may regulate its own procedure.

(3) Without limiting any other powers conferred on it by the Act or by these Rules, the Tribunal may, if it thinks fit—

- (a) order any response document, supplementary statement or written representation to be struck out at any stage of the proceedings on the ground that it is scandalous, frivolous or vexatious; or
- (b) order any reference to be struck out for want of prosecution.

(4) Before making any order under paragraph (3), the Tribunal shall give notice to the party against whom it is proposed that the order should be made, giving it an opportunity to make representations against the making of the order.

Failure to comply

27.—(1) Where a party has, without reasonable excuse, failed to comply—

- (a) with a direction given under these Rules; or
- (b) with a provision of these Rules,

the Tribunal may take any one or more of the following steps in respect of that party—

- (i) make a costs order under rule 21 against that party;
- (ii) where that party is the applicant, dismiss the whole or part of the reference (or, if there is more than one applicant, that applicant's reference);
- (iii) where that party is the Authority, strike out the whole or part of the statement of case and, where appropriate, direct that the Authority be debarred from contesting the reference altogether.

(2) The Tribunal shall not take any of these steps in respect of a party unless it has given that party notice giving it an opportunity to make representations against the taking of any such steps.

Irregularities

28.—(1) Any irregularity resulting from failure to comply with any provision of these Rules or of any direction of the Tribunal before the Tribunal has reached its decision shall not of itself render the proceedings void.

(2) Where any such irregularity comes to the attention of the Tribunal, the Tribunal may, and shall if it considers that any person may have been prejudiced by the irregularity, give such directions as it thinks just to cure or waive the irregularity.

(3) Clerical mistakes in any document recording a direction or decision of the Chairman or the Tribunal, or errors arising in such a document from an accidental slip or omission, may be corrected by a certificate signed by the Chairman.

Power of Chairman to exercise powers of Tribunal

29. Any matter (other than the determination of a reference or the setting aside of a decision on a reference) required or authorised by these Rules to be done by the Tribunal may be done by the Chairman.

Proof of documents

30.—(1) Any document purporting to be a document duly executed or issued by the Chairman or the Secretary on behalf of the Tribunal shall, unless proved to the contrary, be deemed to be a document so executed or issued.

(2) A document purporting to be certified by the Secretary to be a true copy of any entry of a decision in the register shall, unless proved to the contrary, be sufficient evidence of the entry and of the matters referred to in it.

Sending notices

31.—(1) This rule applies to any notice sent under these Rules, and in this rule—

“send” to a person includes deliver or give to, or serve on, that person;

“notice” includes any notice or other thing required or authorised by these Rules to be sent or delivered to, or served on, any person; and

“recipient” means a person to or on whom any notice is required or authorised to be sent for the purposes of these Rules.

(2) A notice may be sent—

- (a) by a postal service which seeks to deliver documents or other things by post no later than the next working day in all or in the majority of cases;
- (b) by fax or other means of electronic communication; or
- (c) by personal delivery.

(3) A notice shall be sent—

- (a) in the case of a notice directed to the Tribunal, to the Tribunal’s office;
- (b) in the case of a notice directed to the applicant—
 - (i) to his representative; or
 - (ii) (in any case where there is no representative) to the applicant,at the appropriate address notified to the Tribunal in accordance with rule 4(3);
- (c) in the case of a notice directed to the Authority, to the Authority’s head office; or
- (d) otherwise, to the recipient’s registered office or last known address.

(4) Subject to paragraphs (5) and (6), a notice that is sent shall be deemed, unless the contrary is proved, to have been received—

- (a) where it was sent by post, on the second day after it was sent; and
- (b) in any other case, on the day it was sent.

(5) Where a notice is sent by post to the Tribunal, it shall be deemed to have been received on the day it was actually received by the Tribunal.

(6) No notice shall be deemed to have been received if it is not received in legible form (or, in the case of a document received in electronic form, if the recipient is not readily able to elicit the information in legible form).

(7) Where the time prescribed by these Rules for doing any act expires on a Saturday, Sunday, Christmas Day, Good Friday or bank holiday, the act shall be in time if done on the next following working day.

(8) Paragraph (9) applies where—

- (a) a recipient cannot be found;
- (b) a recipient has died and has no known personal representative;
- (c) a recipient has no address for service in the United Kingdom; or
- (d) for any other reason service on a recipient cannot be readily effected.

(9) Where this paragraph applies the Chairman may dispense with service on the recipient or may make an order for alternative service on such other person or in such other form (whether by advertisement in a newspaper or otherwise) as the Chairman may think fit.

(10) In this rule, “bank holiday” means a day that is specified in, or appointed under, the Banking and Financial Dealings Act 1971(1).