

SCHEDULE 2

Consequential amendments to primary legislation

Financial Services and Markets Act 2000

45. For section 133 (proceedings: general provision) substitute—

“133 Proceedings before Tribunal: general provision

(1) This section applies in the case of a reference or appeal to the Tribunal (whether made under this or any other Act) in respect of—

- (a) a decision of the Authority;
- (b) a decision of the Bank of England; or
- (c) a decision of a person relating to the assessment of any compensation or consideration under the Banking (Special Provisions) Act 2008⁽¹⁾ or the Banking Act 2009⁽²⁾.

(2) In this section—

“relevant decision” means a decision mentioned in subsection (1)(a), (b) or (c); and

“the decision-maker”, in relation to a relevant decision, means the person who made the relevant decision.

(3) Tribunal Procedure Rules may make provision for the suspension of a relevant decision which has taken effect, pending determination of the reference or appeal.

(4) The Tribunal may consider any evidence relating to the subject-matter of the reference or appeal, whether or not it was available to the decision-maker at the material time.

(5) The Tribunal must determine what (if any) is the appropriate action for the decision-maker to take in relation to the matter referred or appealed to it.

(6) On determining the reference or appeal, the Tribunal must remit the matter to the decision-maker with such directions (if any) as the Tribunal considers appropriate for giving effect to its determination.

(7) The decision-maker must act in accordance with the determination of, and any direction given by, the Tribunal.

(8) An order of the Tribunal may be enforced—

- (a) as if it were an order of a county court; or
- (b) in Scotland, as if it were an order of the Court of Session.

133A Proceedings before Tribunal: decision and supervisory notices, etc.

(1) In determining a reference made (whether under this or any other Act) as a result of a decision notice given by the Authority, the Tribunal may not direct the Authority to take action which the Authority would not, as a result of section 388(2), have had power to take when giving the notice.

(2) In determining a reference made as a result of a supervisory notice given by the Authority, the Tribunal may not direct the Authority to take action which would have otherwise required the giving of a decision notice.

(1) 2008 c. 2.

(2) 2009 c. 1.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (3) In subsection (2) “supervisory notice” has the same meaning as in section 395.
- (4) The Authority must not take the action specified in a decision notice—
 - (a) during the period within which the matter to which the notice relates may be referred to the Tribunal (whether under this or any other Act); and
 - (b) if the matter is so referred, until the reference, and any appeal against the Tribunal’s determination, has been finally disposed of.
- (5) The Tribunal may, on determining a reference (whether made under this or any other Act) in respect of a decision of the Authority, make recommendations as to the Authority’s regulating provisions or its procedures.

133B Offences

- (1) This section applies in the case of proceedings before the Tribunal in respect of—
 - (a) a decision of the Authority;
 - (b) a decision of the Bank of England; or
 - (c) a decision of a person relating to the assessment of any compensation or consideration under the Banking (Special Provisions) Act 2008⁽³⁾ or the Banking Act 2009⁽⁴⁾.
- (2) A person is guilty of an offence if that person, without reasonable excuse—
 - (a) refuses or fails—
 - (i) to attend following the issue of a summons by the Tribunal; or
 - (ii) to give evidence; or
 - (b) alters, suppresses, conceals or destroys, or refuses to produce a document which he may be required to produce for the purposes of proceedings before the Tribunal.
- (3) A person guilty of an offence under subsection (2)(a) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) A person guilty of an offence under subsection (2)(b) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.”

⁽³⁾ 2008 c. 2.
⁽⁴⁾ 2009 c. 1.