



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART IX

#### HEARINGS AND APPEALS

##### Modifications etc. (not altering text)

- C1** Pt. IX applied (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 46A(7) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 148 (with art. 13(1) Sch. 5)); S.I. 2001/3538, art. 2(1)  
Pt. IX applied (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 58A(7) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 75 (with art. 13(3), Sch. 5)); S.I. 2001/3538, art. 2(1)  
Pt. IX applied (with modifications) (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 85(4C)(4D) (as inserted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 95 (with art. 13(3), Sch. 5)); S.I. 2001/3538, art. 2(1)  
Pt. IX applied (with modifications) (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 93(6B)(6C) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 177(d) (with art. 13(3), Sch. 5)); S.I. 2001/3538, art. 2(1)
- C2** Pt. 9 applied (with modifications) (15.12.2007) by The Money Laundering Regulations 2007 (S.I. 2007/2157), reg. 44(4)(8), Sch. 5 para. 2 (with reg. 44(7)) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 129(g))
- C3** Pt. 9 applied (with modifications) (15.12.2007) by The Transfer of Funds (Information on the Payer) Regulations 2007 (S.I. 2007/3298), reg. 13(4), Sch. 2 para. 1 (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 131(d))
- C4** Pt. 9 applied (6.3.2008) by The Regulated Covered Bonds Regulations 2008 (S.I. 2008/346), reg. 40
- C5** Pt. 9 applied (with modifications) (13.3.2008) by The Northern Rock plc Compensation Scheme Order 2008 (S.I. 2008/718), arts. 1(2), 2, Sch. paras. 15-19 (as amended (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2), 5(2), Sch. 3 para. 158(e)-(i) and (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), Sch. 2 para. 139)

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- C6** Pt. 9 applied (with modifications) (19.12.2008) by The Bradford & Bingley plc Compensation Scheme Order 2008 (S.I. 2008/3249), arts. 1(2), 2, **Sch. para. 14-18** (as amended (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2), 5(2), **Sch. 3 para. 176(e)-(i)** and (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 152**)
- C7** Pt. 9 applied (with modifications) (1.5.2009) by The Payment Services Regulations 2009 (S.I. 2009/209), reg. 1(2)(b)(xiii), 95, **Sch. 5 para. 2** (with reg. 3) (as amended (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2), 5(2), **Sch. 3 para. 189** and (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 155(6)(b)(c)** (with Sch. 2 para. 156))
- C8** Pt. 9 applied (with modifications) (30.7.2009) by The Dunfermline Building Society Independent Valuer Order 2009 (S.I. 2009/1810), **arts. 14-18** (as amended (6.4.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2), 5(2), **Sch. 3 paras. 195-199** and (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 175**)
- C9** Pt. 9 applied (with modifications) (31.12.2009) by Banking Act 2009 (c. 1), **ss. 202(3)**, 263(1) (with ss. 206, 247); S.I. 2009/3000, **art. 4**, Sch. para. 2 (with art. 2)
- C10** Pt. 9 applied (with modifications) (11.2.2010) by The Cross-Border Payments in Euro Regulations 2010 (S.I. 2010/89), reg. 19, **Sch. paras. 7, 8**
- C11** Pt. 9 applied (with modifications) (9.2.2011 for certain purposes and 30.4.2011 otherwise) by The Electronic Money Regulations 2011 (S.I. 2011/99), regs. 1(2)(a)(xiv)(b), 62, **Sch. 3 para. 2** (with reg. 3) (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 196(5)(b)(c)**)
- C12** Pt. IX applied (with modifications) (15.1.2013) by The Payments in Euro (Credit Transfers and Direct Debits) Regulations 2012 (S.I. 2012/3122), reg. 1, **Sch. para. 7** (as amended (1.4.2013) by The Financial Services Act 2012 (Consequential Amendments and Transitional Provisions) Order 2013 (S.I. 2013/472), **Sch. 2 para. 248(6)(b)(p)**)
- C13** Pt. IX applied (1.4.2013) by The Financial Services and Markets Act 2000 (Over the Counter Derivatives, Central Counterparties and Trade Repositories) Regulations 2013 (S.I. 2013/504), regs. 1(2), **58** (with regs. 52-58)
- C14** Pt. IX applied (with modifications) (E.W.) (9.7.2013) by The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (Referral Fees) Regulations 2013 (S.I. 2013/1635), regs. 1, **31(I)**
- C15** Pt. IX applied (22.7.2013) by The Alternative Investment Fund Managers Regulations 2013 (S.I. 2013/1773), regs. 1, **70(1)**
- C16** Pt. IX applied (with modifications) (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by The Financial Services Act 2012 (Consumer Credit) Order 2013 (S.I. 2013/1882), arts. 1(1), **3(4)**
- C17** Pt. IX applied (1.1.2014) by The Capital Requirements Regulations 2013 (S.I. 2013/3115), regs. 1(2), **42** (with reg. 44)
- C18** Pt. IX applied (21.11.2014) by The Central Securities Depositories Regulations 2014 (S.I. 2014/2879), regs. 1(1), **5(12)**

## 132 The Financial Services and Markets Tribunal.

F1 .....

### Textual Amendments

- F1** S. 132 omitted (6.4.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(2)(e), 5(1), **Sch. 2 para. 44**

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### **[<sup>F2</sup>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 [<sup>F3</sup>the FCA or the PRA];
  - (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 <sup>M1</sup>Banking (Special Provisions) Act 2008 or the <sup>M2</sup>Banking Act 2009.

- (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.

- [<sup>F4</sup>(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;
  - (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.]

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

- [<sup>F5</sup>(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;

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- (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 [<sup>F6</sup>or 261K];
  - (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.]
- (8) An order of the Tribunal may be enforced—
- (a) [<sup>F7</sup>in England and Wales, as if it were an order of the county court or, in Northern Ireland,] 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.]

#### Textual Amendments

- F2** Ss. 133-133B substituted (6.4.2010) for s. 133 by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(e), 5(1), **Sch. 2 para. 45**
- F3** Words in s. 133(1)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 23(2)(a)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F4** S. 133(5)-(6A) substituted for s. 133(5)(6) (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 23(2)(b)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F5** S. 133(7A) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 23(2)(c)**, 122(3) (with [Sch. 20](#)); S.I. 2013/423, art. 3, [Sch.](#)
- F6** Words in s. 133(7A)(l) inserted (6.6.2013) by [The Collective Investment in Transferable Securities \(Contractual Scheme\) Regulations 2013 \(S.I. 2013/1388\)](#), regs. 1, **3(3)** (with reg. 24)
- F7** Words in s. 133(8)(a) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 9 para. 83**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

#### Modifications etc. (not altering text)

- C19** S. 133 applied (with modifications) (18.7.2002 for certain purposes and 21.8.2002 otherwise) by [The Electronic Commerce Directive \(Financial Services and Markets\) Regulations 2002 \(S.I. 2002/1775\)](#), regs. 1, 12(4) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#)), [Sch. 2 para. 77\(7\)\(b\)](#))
- C20** S. 133 applied (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2013 \(S.I. 2013/1881\)](#), arts. 1(2)(6), **55(3)**

#### Marginal Citations

- M1** 2008 c. 2.  
**M2** 2009 c. 1.

#### [<sup>F8</sup>133A Proceedings before Tribunal: decision and supervisory notices, etc.

- (1) In determining [<sup>F9</sup>in accordance with section 133(5)] a reference made (whether under this or any other Act) as a result of a decision notice [<sup>F10</sup>given by a body, the Tribunal may not direct the body to take action which it would] not, as a result of section 388(2), have had power to take when giving the notice.

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- <sup>F11</sup>(2) .....
- <sup>F12</sup>(3) .....
- (4) [<sup>F13</sup>The action specified in a decision notice must not be taken—]
- (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 [<sup>F14</sup>the FCA or the PRA], make recommendations as to [<sup>F15</sup>its] regulating provisions or its procedures.

#### Textual Amendments

- F8** Ss. 133-133B substituted (6.4.2010) for s. 133 by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(e), 5(1), [Sch. 2 para. 45](#)
- F9** Words in s. 133A(1) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(a\)\(i\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F10** Words in s. 133A(1) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(a\)\(ii\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F11** S. 133A(2) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(b\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F12** S. 133A(3) omitted (1.4.2013) by virtue of [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(b\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F13** Words in s. 133A(4) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(c\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F14** Words in s. 133A(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(d\)\(i\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F15** Word in s. 133A(5) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [ss. 23\(3\)\(d\)\(ii\)](#), 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### Modifications etc. (not altering text)

- C21** S. 133A modified by [S.I. 2002/1775 reg. 12\(4\) \(as amended\) \(1.4.2013\)](#) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 77\(7\)\(b\)](#)
- C22** S. 133A(1) applied (with modifications) (1.4.2013) by [The Financial Services Act 2012 \(Transitional Provisions\) \(Miscellaneous Provisions\) Order 2013 \(S.I. 2013/442\)](#), arts. 1(3), [12\(3\)](#), 13(3)

### 133B Offences

- (1) This section applies in the case of proceedings before the Tribunal in respect of—
- (a) a decision of [<sup>F16</sup>the FCA or the PRA];
- (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 <sup>M3</sup>Banking (Special Provisions) Act 2008 or the <sup>M4</sup>Banking Act 2009.
- (2) A person is guilty of an offence if that person, without reasonable excuse—
- (a) refuses or fails—

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- (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.]

#### Textual Amendments

- F8** Ss. 133-133B substituted (6.4.2010) for s. 133 by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(2)(e), 5(1), **Sch. 2 para. 45**
- F16** Words in s. 133B substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), **ss. 23(4)**, 122(3) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

#### Marginal Citations

- M3** 2008 c. 2.
- M4** 2009 c. 1.

### *Legal assistance before the Tribunal*

#### **134 Legal assistance scheme.**

- (1) The Lord Chancellor may by regulations establish a scheme governing the provision of legal assistance in connection with proceedings before the Tribunal.
- (2) If the Lord Chancellor establishes a scheme under subsection (1), it must provide that a person is eligible for assistance only if—
- (a) he falls within subsection (3); and
  - (b) he fulfils such other criteria (if any) as may be prescribed as a result of section 135(1)(d).
- (3) A person falls within this subsection if he is an individual who has referred a matter to the Tribunal under section 127(4).
- (4) In this Part of this Act “the legal assistance scheme” means any scheme in force under subsection (1).

#### **135 Provisions of the legal assistance scheme.**

- (1) The legal assistance scheme may, in particular, make provision as to—
- (a) the kinds of legal assistance that may be provided;
  - (b) the persons by whom legal assistance may be provided;
  - (c) the manner in which applications for legal assistance are to be made;
  - (d) the criteria on which eligibility for legal assistance is to be determined;

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- (e) the persons or bodies by whom applications are to be determined;
  - (f) appeals against refusals of applications;
  - (g) the revocation or variation of decisions;
  - (h) its administration and the enforcement of its provisions.
- (2) Legal assistance under the legal assistance scheme may be provided subject to conditions or restrictions, including conditions as to the making of contributions by the person to whom it is provided.

### **136 Funding of the legal assistance scheme.**

- (1) The [<sup>F17</sup>FCA] must pay to the Lord Chancellor such sums at such times as he may, from time to time, determine in respect of the anticipated or actual cost of legal assistance provided in connection with proceedings before the Tribunal under the legal assistance scheme.
- (2) In order to enable it to pay any sum which it is obliged to pay under subsection (1), the [<sup>F17</sup>FCA] must make rules requiring the payment to it by authorised persons or any class of authorised person of specified amounts or amounts calculated in a specified way.
- (3) Sums received by the Lord Chancellor under subsection (1) must be paid into the Consolidated Fund.
- (4) The Lord Chancellor must, out of money provided by Parliament fund the cost of legal assistance provided in connection with proceedings before the Tribunal under the legal assistance scheme.
- (5) Subsection (6) applies if, as respects a period determined by the Lord Chancellor, the amount paid to him under subsection (1) as respects that period exceeds the amount he has expended in that period under subsection (4).
- (6) The Lord Chancellor must—
- (a) repay, out of money provided by Parliament, the excess to the [<sup>F18</sup>FCA]; or
  - (b) take the excess into account on the next occasion on which he makes a determination under subsection (1).
- (7) The [<sup>F19</sup>FCA] must make provision for any sum repaid to it under subsection (6)(a)—
- (a) to be distributed among—
    - (i) the authorised persons on whom a levy was imposed in the period in question as a result of rules made under subsection (2); or
    - (ii) such of those persons as it may determine;
  - (b) to be applied in order to reduce any amounts which those persons, or such of them as it may determine, are or will be liable to pay to the [<sup>F19</sup>FCA], whether under rules made under subsection (2) or otherwise; or
  - (c) to be partly so distributed and partly so applied.
- (8) If the [<sup>F20</sup>FCA] considers that it is not practicable to deal with any part of a sum repaid to it under subsection (6)(a) in accordance with provision made by it as a result of subsection (7), it may, with the consent the Lord Chancellor, apply or dispose of that part of that sum in such manner as it considers appropriate.
- (9) “Specified” means specified in the rules.

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#### Textual Amendments

- F17** Word in s. 136(1)(2) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 23\(5\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F18** Word in s. 136(6)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 23\(5\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F19** Word in s. 136(7) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 23\(5\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F20** Word in s. 136(8) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), ss. 23\(5\), 122\(3\)](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)

#### Commencement Information

- II** S. 136 wholly in force at 3.9.2001; s. 136 not in force at Royal Assent see s. 431(2); s. 136 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820, art. 2, Sch.](#); s. 136 in force in so far as not already in force at 3.9.2001 by [S.I. 2001/2632, art. 2\(2\), Sch. Pt. 2](#)

**F21**

#### Textual Amendments

- F21** S. 137 and preceding cross-heading omitted (6.4.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(2\)\(e\), 5\(1\), Sch. 2 para. 46](#)

### 137 Appeal on a point of law.

**F22**

#### Textual Amendments

- F22** S. 137 and preceding cross-heading omitted (6.4.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\), art. 1\(2\)\(e\), 5\(1\), Sch. 2 para. 46](#)



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