



# 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;

*Status: Point in time view as at 01/04/2013.*

*Changes to legislation: Financial Services Act 2012, Section 23 is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (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.

**Status:**

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