



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXVIII U.K.

#### MISCELLANEOUS

#### *[<sup>F1</sup>Consumer redress schemes]*

#### **[<sup>F1</sup>404D Applications to Tribunal to quash rules or provision of rules U.K.]**

- (1) Any person may apply to the Tribunal for a review of any rules made under section 404.
- (2) The Tribunal may—
  - (a) dismiss the application; or
  - (b) make an order (a “quashing order”) quashing any rules made under section 404 or any provision of those rules.
- (3) An application may be made only if permission to make it has first been obtained from the Tribunal.
- (4) The Tribunal may grant permission to make an application only if it considers that the applicant has a sufficient interest in the matter to which the application relates.
- (5) The general rule is that, in determining an application, the Tribunal is to apply the principles applicable on an application for judicial review.
- (6) If (or so far as) an application relates to an example set out in the rules as a result of section 404A(1)(b), the Tribunal may determine whether the example constitutes a failure to comply with the requirement in question.
- (7) If (or so far as) an application relates to a matter set out in the rules as a result of section 404A(1)(c), the Tribunal may determine whether the matter should be taken into account as mentioned in that provision.
- (8) In the case of an application within subsection (6) or (7), the Tribunal's jurisdiction under that subsection is in addition to its jurisdiction under subsection (5).

*Status: Point in time view as at 28/02/2014.*

*Changes to legislation: Financial Services and Markets Act 2000, Section 404D is up to date with all changes known to be in force on or before 21 July 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)*

- (9) A quashing order may be enforced as if it were an order made, on an application for judicial review, by the High Court or, in Scotland, the Court of Session.
- (10) The Tribunal may award damages to the applicant if—
- (a) the application includes a claim for damages arising from any matter to which the application relates; and
  - (b) the Tribunal is satisfied that an award would have been made by the High Court or, in Scotland, the Court of Session if the claim had been made in an action begun in that court by the applicant when making the application.
- (11) An award of damages under subsection (10) may be enforced as if it were an award made by the High Court or, in Scotland, the Court of Session.
- (12) In the case of any proceedings under this section, the judge presiding at the proceedings must be—
- (a) a judge of the High Court or the Court of Appeal or a judge of the Court of Session; or
  - (b) such other person as may be agreed from time to time by—
    - (i) the Lord Chief Justice, the Lord President or the Lord Chief Justice of Northern Ireland (as the case may be); and
    - (ii) the Senior President of Tribunals.
- (13) Section 133 does not apply in the case of an application under this section, but—
- (a) Tribunal Procedure Rules may make provision for the suspension of rules made under section 404 or of any provision of those rules, pending determination of the application; and
  - (b) in the case of an application within subsection (6) or (7), the Tribunal may consider any evidence relating to the application's subject-matter, whether or not it was available at the time the rules were made.
- (14) If—
- (a) the Tribunal refuses to grant permission to make an application under this section, and
  - (b) on an appeal by the applicant, the Court of Appeal grants the permission,
- the Court of Appeal may go on to decide the application under this section.]

#### Textual Amendments

- F1** Ss. 404-404G and preceding cross-heading substituted (12.10.2010) for s. 404 and preceding cross-heading by [Financial Services Act 2010 \(c. 28\)](#), [ss. 14, 26\(3\)](#); [S.I. 2010/2480](#), [art. 2](#)

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