



# 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)

*Status: Point in time view as at 27/11/2008. This version of this part contains provisions that are not valid for this point in time.*

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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**

### 132 The Financial Services and Markets Tribunal.

- (1) For the purposes of this Act, there is to be a tribunal known as the Financial Services and Markets Tribunal (but referred to in this Act as “the Tribunal”).
- (2) The Tribunal is to have the functions conferred on it by or under this Act.
- (3) The Lord Chancellor may by rules make such provision as appears to him to be necessary or expedient in respect of the conduct of proceedings before the Tribunal.
- (4) Schedule 13 is to have effect as respects the Tribunal and its proceedings (but does not limit the Lord Chancellor’s powers under this section).

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

- C11** S. 132 amended (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)**

#### Commencement Information

- II** S. 132 wholly in force at 3.9.2001; s. 132 not in force at Royal Assent see s. 431(2); s. 132(1) in force for specified purposes at 25.2.2001 by S.I. 2001/516, art. 2(c), **Sch. Pt. 3**; s. 132(3) in force at 25.2.2001 by S.I. 2001/516, art. 2(a), **Sch. Pt. 1**; s. 132 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**

### 133 Proceedings: general provision.

- (1) A reference to the Tribunal under this Act must be made before the end of—
  - (a) the period of 28 days beginning with the date on which the decision notice or supervisory notice in question is given; or
  - (b) such other period as may be specified in rules made under section 132.

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- (2) Subject to rules made under section 132, the Tribunal may allow a reference to be made after the end of that period.
- (3) On a reference the Tribunal may consider any evidence relating to the subject-matter of the reference, whether or not it was available to the Authority at the material time.
- (4) On a reference the Tribunal must determine what (if any) is the appropriate action for the Authority to take in relation to the matter referred to it.
- (5) On determining a reference, the Tribunal must remit the matter to the Authority with such directions (if any) as the Tribunal considers appropriate for giving effect to its determination.
- (6) In determining a reference made as a result of a decision notice, 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 decision notice.
- (7) In determining a reference made as a result of a supervisory notice, the Tribunal may not direct the Authority to take action which would have otherwise required the giving of a decision notice.
- (8) The Tribunal may, on determining a reference, make recommendations as to the Authority's regulating provisions or its procedures.
- (9) The Authority must not take the action specified in a decision notice—
  - (a) during the period within which the matter to which the decision notice relates may be referred to the Tribunal; and
  - (b) if the matter is so referred, until the reference, and any appeal against the Tribunal's determination, has been finally disposed of.
- (10) The Authority must act in accordance with the determination of, and any direction given by, the Tribunal.
- (11) 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.
- (12) "Supervisory notice" has the same meaning as in section 395.

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

- C12** S. 133 applied (1.12.2001) by S.I. 2001/1228, **regs. 1(2)(c)**, 11 (with **reg. 1(2)(3)**); S.I. 2001/3538, **art. 2(1)**  
S. 133 applied (with modifications) (10.8.2001) by S.I. 2001/2636, **arts. 1(2)(a)**, 58(6)  
S. 133 applied (with modifications) (1.12.2001) by S.I. 2001/2657, **arts. 1(1)**, 10(6), 11(6) (which was revoked (8.10.2001) by 2001/3083, arts. (2), 23); S.I. 2001/3538, **art. 2(1)**  
S. 133 applied (with modifications) (1.12.2001) by S.I. 2001/3083, **arts. 1(2)**, 10(6), 11(6); S.I. 2001/3538, **art. 2(1)**  
S. 133 applied (with modifications) (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 62(2), 79(2) (with **art. 23(2)**)  
S. 133 applied (1.12.2001) by S.I. 2001/3592, **arts. 1(2)**, 83(3) (with **art. 23(2)**)
- C13** S. 133 amended (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)**

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**C14** S. 133 applied (N.I.) (1.11.2004) by Open-Ended Investment Companies Regulations (Northern Ireland) 2004 (S.R. 2004/335), regs. 1(1)(b), **11** (with reg. 1(2))

**C15** S. 133(6) modified (1.12.2001) by S.I. 2001/2957, **arts. 1, 12(8)**; S.I. 2001/3538, **art. 2(1)**

VALID FROM 06/04/2010

**[<sup>F1</sup> Proceedings before Tribunal: decision and supervisory notices, etc.**

**[<sup>F1</sup> 133A**

- (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.
- (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.]

**Textual Amendments**

- F1** 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**

VALID FROM 06/04/2010

**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 <sup>M1</sup>Banking (Special Provisions) Act 2008 or the <sup>M2</sup>Banking Act 2009.
- (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

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- (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

**F1** 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](#)

#### Marginal Citations

**M1** 2008 c. 2.  
**M2** 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;
  - (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;

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(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 Authority 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 Authority 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 Authority; or
- (b) take the excess into account on the next occasion on which he makes a determination under subsection (1).

(7) The Authority 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 Authority, whether under rules made under subsection (2) or otherwise; or
- (c) to be partly so distributed and partly so applied.

(8) If the Authority 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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#### Commencement Information

- I2** 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

### Appeals

#### 137 Appeal on a point of law.

- (1) A party to a reference to the Tribunal may with permission appeal—
  - (a) to the Court of Appeal, or
  - (b) in Scotland, to the Court of Session,on a point of law arising from a decision of the Tribunal disposing of the reference.
- (2) “Permission” means permission given by the Tribunal or by the Court of Appeal or (in Scotland) the Court of Session.
- (3) If, on an appeal under subsection (1), the court considers that the decision of the Tribunal was wrong in law, it may—
  - (a) remit the matter to the Tribunal for rehearing and determination by it; or
  - (b) itself make a determination.
- (4) An appeal may not be brought from a decision of the Court of Appeal under subsection (3) except with the leave of—
  - (a) the Court of Appeal; or
  - (b) the House of Lords.
- (5) An appeal lies, with the leave of the Court of Session or the House of Lords, from any decision of the Court of Session under this section, and such leave may be given on such terms as to costs, expenses or otherwise as the Court of Session or the House of Lords may determine.
- (6) Rules made under section 132 may make provision for regulating or prescribing any matters incidental to or consequential on an appeal under this section.

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

- C16** S. 137 applied (with modifications) (10.8.2001) by S.I. 2001/2636, arts. 1(2)(a), 58(6)

#### Commencement Information

- I3** S. 137 wholly in force at 3.9.2001; s. 137 not in force at Royal Assent see s. 431(2); s. 137(6) in force at 25.2.2001 by S.I. 2001/516, art. 2(a), Sch. Pt. 1; s. 137 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

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