
STATUTORY INSTRUMENTS

2001 No. 3592

The Financial Services and Markets Act 2000 (Transitional Provisions) (Partly Completed Procedures) Order 2001

PART VI

PROCEEDINGS OF RECOGNISED SELF-REGULATING ORGANISATIONS

CHAPTER III

INCOMPLETE APPEALS

Preservation of right of appeal against disciplinary measure

79.—(1) Where before commencement—

- (a) a disciplinary measure has been imposed on a person;
- (b) the period set by the rules of the organisation which imposed the disciplinary measure during which a right to appeal may be exercised has not expired;
- (c) the right to appeal has not been exercised in accordance with the rules of that body,

the person who had a right to appeal against the imposition of the measure may refer the matter to the Financial Services and Markets Tribunal.

(2) Section 133 applies to the Tribunal in respect of a reference made under paragraph (1) with the following modifications—

- (a) section 133(1)(a) applies as if the period mentioned was so much of the period referred to in paragraph (1)(b) above as had not expired at commencement;
- (b) as if subsection (3) provided that on such a reference, the Tribunal may consider only the evidence which was considered in the course of the proceedings which resulted in the imposition of the disciplinary measure, unless fresh evidence comes to light which could not reasonably have been made available then by the party now seeking to adduce it;
- (c) as if subsection (4) provided that on determining the appeal, the Tribunal must determine whether the imposition of the disciplinary measure was unlawful or was not justified by the evidence and must remit the matter to the Authority with such directions (if any) as the Tribunal considers appropriate having regard to its determination;
- (d) as if subsections (6), (7), (8), (9) and (12) did not apply.

(3) For the purposes of paragraph (1) a right to appeal has the same meaning as in article 77(4).

(4) Article 60 applies to the power of the Tribunal under this article, and to the Authority in giving effect to a direction from the Tribunal as it applies to directions given by the interim tribunal under article 58 and to the action of the Authority in giving effect to such directions.