
STATUTORY INSTRUMENTS

2002 No. 2722

**DATA PROTECTION
FREEDOM OF INFORMATION**

**The Information Tribunal (Enforcement
Appeals) (Amendment) Rules 2002**

Made - - - - 30th October 2002

Laid before Parliament 1st November 2002

Coming into force - - 30th November 2002

The Lord Chancellor, in exercise of the powers conferred upon him by section 67(2) of, and paragraph 7 of Schedule 6 to, the Data Protection Act 1998(1), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(2) hereby makes the following Rules:

1. These Rules may be cited as the Information Tribunal (Enforcement Appeals) (Amendment) Rules 2002 and shall come into force on 30th November 2002.

2. The Data Protection Tribunal (Enforcement Appeals) Rules 2000(3) shall be amended as set out below.

3. In rule 2, for paragraphs (1) and (2), there is substituted—

“(1) These Rules apply to appeals under section 48 of the 1998 Act and section 57(2) of the 2000 Act, and the provisions of these Rules are to be construed accordingly.

(2) In these Rules, unless the context otherwise requires—

“the 1998 Act” means the Data Protection Act 1998;

“the 2000 Act” means the Freedom of Information Act 2000(4);

“appeal” means an appeal under—

(1) 1998 c. 29. Paragraph 7 of Schedule 6 was amended by paragraph 4 of Schedule 4 to the Freedom of Information Act 2000 (c. 36). The functions of the Secretary of State under section 67 of, and Schedule 6 to, the Data Protection Act 1998 were transferred to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), which Order amended those provisions accordingly.

(2) 1992 c. 53.

(3) S.I. 2000/189. The Data Protection Tribunal was renamed the Information Tribunal by section 18(2) of the Freedom of Information Act 2000, which provision came into force on 14th May 2001 (S.I. 2001/1637). By paragraph 1(2) of Schedule 2 to that Act, any reference in any enactment, instrument or document to the Data Protection Tribunal is to be construed, in relation to any time after the commencement of section 18(2), as a reference to the Information Tribunal.

(4) 2000 c. 36.

- (a) section 48 of the 1998 Act, or
- (b) section 57(2) of the 2000 Act;

“appellant” means—

- (a) a person who brings or intends to bring an appeal under section 48 of the 1998 Act, or
- (b) a public authority which brings or intends to bring an appeal under section 57(2) of the 2000 Act;

“chairman” means the chairman of the Tribunal, and includes a deputy chairman of the Tribunal presiding or sitting alone;

“costs”—

- (a) except in Scotland, includes fees, charges, disbursements, expenses and remuneration;
- (b) in Scotland means expenses, and includes fees, charges, disbursements and remuneration;

“disputed decision” means—

- (a) in relation to an appeal under section 48 of the 1998 Act other than an appeal under section 48(3)(b) of that Act, the decision of the Commissioner,
- (b) in relation to an appeal under section 48(3)(b) of the 1998 Act, the effect of a decision of the Commissioner, and
- (c) in relation to an appeal under section 57(2) of the 2000 Act, the decision of the Commissioner,

against which the appellant appeals or intends to appeal to the Tribunal;

“party” has the meaning given in paragraph (3) below; and

“proper officer” in relation to a rule means an officer or member of staff provided to the Tribunal under paragraph 14 of Schedule 5 to the 1998 Act and appointed by the chairman to perform the duties of a proper officer under that rule.”.

4. In each of rules 3(3), 6(5) and 18(1), after the words “section 48(1) of the” there is inserted “1998 Act or section 57(2) of the 2000”.

5. In each of rules 5(3), 5(3)(b), 7(3), 12(2)(b), 14(3), 14(4)(b), 16(2), 18(3), 20(2) and 22, before “Act” there is inserted “1998”.

6. In rule 12(1), after “appeal” there is inserted “under section 48 of the 1998 Act”.

Signed by the authority of the Lord Chancellor

30th October 2002

Yvette Cooper
Parliamentary Secretary
Lord Chancellor’s Department

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules, which have been prepared after consultation with the Council on Tribunals, amend the Data Protection Tribunal (Enforcement Appeals) Rules 2000 (“the 2000 Rules”).

By section 18(2) of the Freedom of Information Act 2000, the Data Protection Tribunal is now known as the Information Tribunal.

The 2000 Rules regulate the exercise of the rights of appeal conferred by section 48 of the Data Protection Act 1998 and the practice and procedure of the Tribunal in such cases.

These Rules amend the 2000 Rules so that they also cover appeals under section 57(2) of the Freedom of Information Act 2000. Under section 57(2), a public authority may appeal to the Tribunal against an information notice or enforcement notice served by the Information Commissioner.

Rule 3 of these Rules substitutes a new rule 2(1) and (2) in the 2000 Rules. Rules 4, 5 and 6 of these Rules make minor amendments to the 2000 Rules.