
STATUTORY INSTRUMENTS

2011 No. 1208

**The Privacy and Electronic Communications
(EC Directive) (Amendment) Regulations 2011**

Amendment of the 2003 Regulations

12. After regulation 31 insert—

“Enforcement: third party information notices

31A.—(1) The Information Commissioner may require a communications provider (A) to provide information to the Information Commissioner by serving on A a notice (“a third party information notice”).

(2) The third party information notice may require A to release information held by A about another person’s use of an electronic communications network or an electronic communications service where the Information Commissioner believes that the information requested is relevant information.

(3) Relevant information is information which the Information Commissioner considers is necessary to investigate the compliance of any person with these Regulations.

(4) The notice shall set out—

- (a) the information requested,
- (b) the form in which the information must be provided;
- (c) the time limit within which the information must be provided; and
- (d) information about the rights of appeal conferred by these Regulations.

(5) The time limit referred to in paragraph (4)(c) shall not expire before the end of the period in which an appeal may be brought. If an appeal is brought, the information requested need not be provided pending the determination or withdrawal of the appeal.

(6) In an urgent case, the Commissioner may include in the notice—

- (a) a statement that the case is urgent; and
- (b) a statement of his reasons for reaching that conclusion,

in which case paragraph (5) shall not apply.

(7) Where paragraph (6) applies, the communications provider shall have a minimum of 7 days (beginning on the day on which the notice is served) to provide the information requested.

(8) A person shall not be required by virtue of this regulation to disclose any information in respect of—

- (a) any communication between a professional legal adviser and the adviser’s client in connection with the giving of legal advice with respect to the client’s obligations, liabilities or rights under these Regulations, or
- (b) any communication between a professional legal adviser and the adviser’s client, or between such an adviser or the adviser’s client and any other person, made in

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connection with or in contemplation of proceedings under or arising out of these Regulations (including proceedings before the Tribunal) and for the purposes of such proceedings.

Enforcement: appeals

31B.—(1) A communications provider on whom a third party information notice has been served may appeal to the Tribunal against the notice.

(2) Appeals shall be determined in accordance with section 49 of and Schedule 6 to the Data Protection Act 1998 as modified by Schedule 1 to these Regulations.”