
STATUTORY INSTRUMENTS

2015 No. 1415

The Re-use of Public Sector Information Regulations 2015

Enforcement and appeals provisions: regulation 15(5) charging exceptions

19.—(1) This regulation applies where (and only to the extent that) a complaint under regulation 17 alleges that a public sector body has either—

- (a) failed to comply with regulation 15(5); or
- (b) applied regulation 15(5) in a case where regulation 15(3)(a) or (b) does not apply.

(2) The relevant enforcement and appeals provisions of the 2000 Act apply for the purposes of this Regulation as they apply for the purposes of the 2000 Act, but with the modifications in paragraph (4) of this regulation.

(3) In this regulation, “the relevant enforcement and appeals provisions of the 2000 Act” means the following sections of the 2000 Act—

- (a) section 50 (application for decision by Commissioner);
- (b) section 56 (no action against public authority);
- (c) section 57 (appeal against notices served under Part IV);
- (d) section 58 (determination of appeals).

(4) The relevant enforcement and appeals provisions of the 2000 Act apply as mentioned in paragraph (2) as if—

- (a) for any reference to “public authority”, “an authority” or “the authority”, there were substituted a reference to “public sector body”, “a body” or “the body” respectively;
- (b) for any reference to “decision” or “decision notice” (including in the heading of section 50 but excluding any reference in text treated as inserted by this regulation), there were substituted a reference to “recommendation” or “recommendation notice”, as the case may be;

(c) in section 50—

(i) in subsection (1)—

(aa) for “information” there were substituted “re-use”;

(bb) for “Part I” there were substituted “the Re-use of Public Sector Information Regulations 2015”;

(ii) in subsection (2)(a), the words “in conformity with the code of practice under section 45” were omitted;

(iii) for subsections (4) to (7), there were substituted the following —

“(4) Where a recommendation notice has been served, the public sector body shall—

- (a) decide what action, if any, it will take as a result of the recommendation and the date by which any such action will be taken; and
- (b) notify the Commissioner and the complainant of its decision and the reasons for it.

- (5) Action referred to in subsection (4) may include (but is not limited to)—
 - (a) reaffirming, varying or substituting any response by the public sector body to the complainant’s request for re-use; or
 - (b) taking no further steps.

(6) The public sector body must comply with subsection (4) promptly and in any event not later than the twentieth working day following the date of receipt by the public sector body of the recommendation.

(7) In this section “working day” means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.”;

- (d) in section 56(1)—

- (i) for “by or under this Act” there were substituted “by the Re-use of Public Sector Information Regulations 2015”;
- (ii) subsection (2) were omitted;

- (e) in section 57—

- (i) in the heading, after “served” there were inserted “and decisions notified”;
- (ii) subsection (1) were omitted;
- (iii) in subsection (2), for “information notice or an enforcement notice” there were substituted “recommendation notice”;
- (iv) for subsection (3), there were substituted the following —

“(3) Where a public sector body has provided notification of its decision under section 50(4), the complainant may appeal to the First-tier Tribunal against the decision.

(4) Where a public sector body has failed to provide a notification or its reasons under section 50(4) within the period referred to in section 50(6), the complainant may, without further delay, appeal to the First-tier Tribunal in respect of any matter complained of under section 50(1).”;

- (f) in section 58—

- (i) in subsection (1), for “57” there were substituted “57(2)”;
- (ii) for subsection (2) there were substituted—

“(2) If on an appeal under section 57(3) the Tribunal considers that the decision is not in accordance with the law, the Tribunal shall allow the appeal; and in any other case the Tribunal shall dismiss the appeal.

(3) If on an appeal under section 57(4) the Tribunal considers that the request for re-use made by the complainant to the public sector body was not dealt with in accordance with regulation 15(5) of the Re-use of Public Sector Information Regulations 2015 or that the body applied that regulation in a case where regulation 15(3) (a) or (b) did not apply, the Tribunal shall allow the appeal; and in any other case the Tribunal shall dismiss the appeal.

(4) On an appeal, the Tribunal may review any finding of fact on which the notice in question was based.”.