



# Scottish Biometrics Commissioner Act 2020

2020 asp 8

## *Compliance notices*

### **23 Compliance notices**

- (1) Where the Commissioner considers that a person who is required by section 9(1) to comply with the code of practice has not done or is not doing so, the Commissioner may issue a compliance notice to the person.
- (2) A “compliance notice” is a notice requiring the person to whom it is issued to take the steps set out in the notice in order to address the person’s failure to comply with the code of practice.

### **24 Content of a compliance notice**

A compliance notice must include—

- (a) a statement of the grounds for issuing the notice, including a statement of—
  - (i) the provision of the code of practice which the Commissioner considers that the person has not complied with,
  - (ii) the act or omission which has caused the Commissioner to conclude that the code of practice has not been complied with,
- (b) details of the steps that the Commissioner requires the person to whom the notice is issued to take in order to—
  - (i) comply with the code of practice, or
  - (ii) ensure that the code of practice will be complied with in future,
- (c) the date of issue of the notice,
- (d) the period of time within which the required steps are to be taken,
- (e) information about the person to whom, and as to how and by when, any representations about the notice may be made,
- (f) an explanation of the consequences of failure to comply with the requirements of the notice.

**25 Variation of a compliance notice**

- (1) The Commissioner may vary a compliance notice—
  - (a) so as to extend the period of time within which the required steps are to be taken, and
  - (b) with the consent of the person to whom the notice was issued, so as to modify the required steps.
- (2) A compliance notice may be varied at any time before the expiry of the period within which the required steps are to be taken.
- (3) A compliance notice is varied by—
  - (a) in the case of a variation under subsection (1)(a), issuing a notice in writing to the person to whom the compliance notice was issued,
  - (b) in the case of a variation under subsection (1)(b), agreement in writing between the Commissioner and the person to whom the compliance notice was issued.

**26 Revocation of a compliance notice**

- (1) The Commissioner may revoke a compliance notice.
- (2) A compliance notice may be revoked—
  - (a) at any time before completion of the steps that are to be taken to comply with it,
  - (b) by issuing a notice in writing to that effect to the person to whom the compliance notice was issued.

**27 Failure to comply with a compliance notice**

- (1) Where a person to whom a compliance notice has been issued refuses or fails, without reasonable excuse, to comply with the notice, the Commissioner may report the matter to the Court of Session.
- (2) After receiving a report under subsection (1) and hearing any evidence or representations on the matter, the Court may (either or both)—
  - (a) make such order for enforcement as it considers appropriate,
  - (b) deal with the matter as if it were a contempt of court.