



Data Protection Act 1998

1998 CHAPTER 29

PART V

ENFORCEMENT

49 Determination of appeals.

- (1) If on an appeal under section 48(1) the Tribunal considers—
 - (a) that the notice against which the appeal is brought is not in accordance with the law, or
 - (b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,the Tribunal shall allow the appeal or substitute such other notice or decision as could have been served or made by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (2) On such an appeal, the Tribunal may review any determination of fact on which the notice in question was based.
- (3) If on an appeal under section 48(2) the Tribunal considers that the enforcement notice ought to be cancelled or varied by reason of a change in circumstances, the Tribunal shall cancel or vary the notice.
- (4) On an appeal under subsection (3) of section 48 the Tribunal may direct—
 - (a) that the notice in question shall have effect as if it did not contain any such statement as is mentioned in that subsection, or
 - (b) that the inclusion of the statement shall not have effect in relation to any part of the notice,and may make such modifications in the notice as may be required for giving effect to the direction.
- (5) On an appeal under section 48(4), the Tribunal may cancel the determination of the Commissioner.
- (6) ^{F1}

Status: Point in time view as at 22/07/2016. This version of this provision has been superseded.

Changes to legislation: Data Protection Act 1998, Section 49 is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(7) ^{F1}

Textual Amendments

F1 S. 49(6)(7) omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), arts. 1(1), 5(1), **Sch. 2 para. 27**

Modifications etc. (not altering text)

- C1** S. 49 applied (6.4.2010) by [The Data Protection \(Monetary Penalties\) Order 2010 \(S.I. 2010/910\)](#), **art. 7**
- C2** S. 49 applied (with modifications) (26.5.2011) by [The Privacy and Electronic Communications \(EC Directive\) Regulations 2003 \(S.I. 2003/2426\)](#), reg. 31B, **Sch. 1** (reg. 31B being inserted and Sch. 1 amended (26.5.2011) by [The Privacy and Electronic Communications \(EC Directive\) \(Amendment\) Regulations 2011 \(S.I. 2011/1208\)](#), regs. {12} {14})
- C3** S. 49 applied (with modifications) (22.7.2016) by [The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 \(S.I. 2016/696\)](#), reg. 1, Sch. 2 paras. 1(i), **2**

Status:

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