



Data Protection Act 1998

1998 CHAPTER 29

PART V

ENFORCEMENT

[^{F1}41B Assessment notices: limitations

- (1) A time specified in an assessment notice under section 41A(5) in relation to a requirement must not fall, and a period so specified must not begin, before the end of the period within which an appeal can be brought against the notice, and if such an appeal is brought the requirement need not be complied with pending the determination or withdrawal of the appeal.
- (2) If by reason of special circumstances the Commissioner considers that it is necessary for the data controller to comply with a requirement in an assessment notice as a matter of urgency, the Commissioner may include in the notice a statement to that effect and a statement of the reasons for that conclusion; and in that event subsection (1) applies in relation to the requirement as if for the words from “within” to the end there were substituted of 7 days beginning with the day on which the notice is served.
- (3) A requirement imposed by an assessment notice does not have effect in so far as compliance with it would result in the disclosure 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 this Act, 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 connection with or in contemplation of proceedings under or arising out of this Act (including proceedings before the Tribunal) and for the purposes of such proceedings.
- (4) In subsection (3) references to the client of a professional legal adviser include references to any person representing such a client.

Status: Point in time view as at 22/07/2016. This version of this provision has been superseded.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 41B is up to date with all changes known to be in force on or before 09 May 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)

- (5) Nothing in section 41A authorises the Commissioner to serve an assessment notice on—
- (a) a judge,
 - (b) a body specified in section 23(3) of the Freedom of Information Act 2000 (bodies dealing with security matters), or
 - (c) the Office for Standards in Education, Children's Services and Skills in so far as it is a data controller in respect of information processed for the purposes of functions exercisable by Her Majesty's Chief Inspector of Education, Children's Services and Skills by virtue of section 5(1)(a) of the Care Standards Act 2000.
- (6) In this section “judge” includes —
- (a) a justice of the peace (or, in Northern Ireland, a lay magistrate),
 - (b) a member of a tribunal, and
 - (c) a clerk or other officer entitled to exercise the jurisdiction of a court or tribunal;
- and in this subsection “tribunal” means any tribunal in which legal proceedings may be brought.]

Textual Amendments

- F1** Ss. 41A-41C inserted (1.2.2010 as regards s. 41C and 6.4.2010 as regards ss. 41A, 41B) by [Coroners and Justice Act 2009 \(c. 25\)](#), [ss. 173, 182](#) (with s. 180); [S.I. 2010/145](#), [art. 2](#), [Sch. para. 15](#); [S.I. 2010/816](#), [art. 2](#), [Sch. para. 12](#)

Modifications etc. (not altering text)

- C1** [S. 41B](#) 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\(d\), 2](#)

Status:

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