



Investigatory Powers Act 2016

2016 CHAPTER 25

PART 8

OVERSIGHT ARRANGEMENTS

CHAPTER 2

OTHER ARRANGEMENTS

Investigatory Powers Tribunal

242 Right of appeal from Tribunal

(1) After section 67 of the Regulation of Investigatory Powers Act 2000 insert—

“67A Appeals from the Tribunal

- (1) A relevant person may appeal on a point of law against any determination of the Tribunal of a kind mentioned in section 68(4) or any decision of the Tribunal of a kind mentioned in section 68(4C).
- (2) Before making a determination or decision which might be the subject of an appeal under this section, the Tribunal must specify the court which is to have jurisdiction to hear the appeal (the “relevant appellate court”).
- (3) This court is whichever of the following courts appears to the Tribunal to be the most appropriate—
 - (a) the Court of Appeal in England and Wales,
 - (b) the Court of Session.
- (4) The Secretary of State may by regulations, with the consent of the Northern Ireland Assembly, amend subsection (3) so as to add the Court of Appeal in Northern Ireland to the list of courts mentioned there.

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- (5) The Secretary of State may by regulations specify criteria to be applied by the Tribunal in making decisions under subsection (2) as to the identity of the relevant appellate court.
- (6) An appeal under this section—
- (a) is to be heard by the relevant appellate court, but
 - (b) may not be made without the leave of the Tribunal or, if that is refused, of the relevant appellate court.
- (7) The Tribunal or relevant appellate court must not grant leave to appeal unless it considers that—
- (a) the appeal would raise an important point of principle or practice, or
 - (b) there is another compelling reason for granting leave.
- (8) In this section—
- “relevant appellate court” has the meaning given by subsection (2),
- “relevant person”, in relation to any proceedings, complaint or reference, means the complainant or—
- (a) in the case of proceedings, the respondent,
 - (b) in the case of a complaint, the person complained against, and
 - (c) in the case of a reference, any public authority to whom the reference relates.”

(2) In section 67 of that Act (no appeal from the Investigatory Powers Tribunal except as provided by order of the Secretary of State)—

 - (a) in subsection (8) for “Except to such extent as the Secretary of State may by order otherwise provide,” substitute “Except as provided by virtue of section 67A,”, and
 - (b) omit subsections (9) to (12).

(3) After section 68(4) of that Act (requirement to give notice of determinations to complainant) insert—

“(4A) Where the Tribunal make any determination of a kind mentioned in subsection (4), they must also give notice to—

 - (a) in the case of proceedings, the respondent,
 - (b) in the case of a complaint, the person complained against, and
 - (c) in the case of a reference, any public authority to whom the reference relates.

(4B) A notice under subsection (4A) is (subject to any rules made by virtue of section 69(2)(j)) to be confined, as the case may be, to either—

 - (a) a statement that they have made a determination in the complainant’s favour, or
 - (b) a statement that no determination has been made in the complainant’s favour.

(4C) Where the Tribunal make any decision which—

 - (a) is a final decision of a preliminary issue in relation to any proceedings, complaint or reference brought before or made to them, and
 - (b) is neither a determination of a kind mentioned in subsection (4) nor a decision relating to a procedural matter,

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they must give notice of that decision to every person who would be entitled to receive notice of the determination under subsection (4) or (4A).

(4D) A notice under subsection (4C) is (subject to any rules made by virtue of section 69(2)(i) or (j)) to be confined to a statement as to what the decision is.

(4E) Subsections (4C) and (4D) do not apply so far as—

- (a) the Tribunal are prevented from giving notice of a decision to a person by rules made by virtue of section 69(4) or decide under such rules not to give such a notice, or
- (b) the giving of such a notice is inconsistent with such rules.”

(4) In section 69(2) of that Act (Tribunal rules)—

- (a) in paragraph (i), after “section 68(4)” insert “or notice under section 68(4C)”, and
- (b) after paragraph (i), insert “;
 - (j) require information about any determination, award, order or other decision made by the Tribunal in relation to any proceedings, complaint or reference to be provided (in addition to any statement under section 68(4A) or notice under section 68(4C)) to—
 - (i) in the case of proceedings, the respondent,
 - (ii) in the case of a complaint, the person complained against, and
 - (iii) in the case of a reference, any public authority to whom the reference relates,
- (k) make provision about the making and determination of applications to the Tribunal for permission to appeal”.

(5) In section 78 of that Act (orders, regulations and rules)—

- (a) in subsection (4), after “applies” insert “(other than regulations under section 67A(5))”, and
- (b) after subsection (4) insert—

“(4A) A statutory instrument containing regulations under section 67A(5) may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.”