



# Data Protection Act 2018

## 2018 CHAPTER 12

### PART 6

#### ENFORCEMENT

##### *Appeals etc*

#### **162 Rights of appeal**

- (1) A person who is given any of the following notices may appeal to the Tribunal—
  - (a) an information notice;
  - (b) an assessment notice;
  - (c) an enforcement notice;
  - (d) a penalty notice;
  - (e) a penalty variation notice.
- (2) A person who is given an enforcement notice may appeal to the Tribunal against the refusal of an application under section 153 for the cancellation or variation of the notice.
- (3) A person who is given a penalty notice or a penalty variation notice may appeal to the Tribunal against the amount of the penalty specified in the notice, whether or not the person appeals against the notice.
- (4) Where a determination is made under section 174 in respect of the processing of personal data, the controller or processor may appeal to the Tribunal against the determination.

#### **163 Determination of appeals**

- (1) Subsections (2) to (4) apply where a person appeals to the Tribunal under section 162(1) or (3).

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*Status: This is the original version (as it was originally enacted).*

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- (2) The Tribunal may review any determination of fact on which the notice or decision against which the appeal is brought was based.
- (3) If the Tribunal considers—
  - (a) that the notice or decision against which the appeal is brought is not in accordance with the law, or
  - (b) to the extent that the notice or decision involved an exercise of discretion by the Commissioner, that the Commissioner ought to have exercised the discretion differently,
 the Tribunal must allow the appeal or substitute another notice or decision which the Commissioner could have given or made.
- (4) Otherwise, the Tribunal must dismiss the appeal.
- (5) On an appeal under section 162(2), if the Tribunal considers that the enforcement notice ought to be cancelled or varied by reason of a change in circumstances, the Tribunal must cancel or vary the notice.
- (6) On an appeal under section 162(4), the Tribunal may cancel the Commissioner’s determination.

#### **164 Applications in respect of urgent notices**

- (1) This section applies where an information notice, an assessment notice or an enforcement notice given to a person contains an urgency statement.
- (2) The person may apply to the court for either or both of the following—
  - (a) the disapplication of the urgency statement in relation to some or all of the requirements of the notice;
  - (b) a change to the time at which, or the period within which, a requirement of the notice must be complied with.
- (3) On an application under subsection (2), the court may do any of the following—
  - (a) direct that the notice is to have effect as if it did not contain the urgency statement;
  - (b) direct that the inclusion of the urgency statement is not to have effect in relation to a requirement of the notice;
  - (c) vary the notice by changing the time at which, or the period within which, a requirement of the notice must be complied with;
  - (d) vary the notice by making other changes required to give effect to a direction under paragraph (a) or (b) or in consequence of a variation under paragraph (c).
- (4) The decision of the court on an application under this section is final.
- (5) In this section, “urgency statement” means—
  - (a) in relation to an information notice, a statement under section 142(7)(a),
  - (b) in relation to an assessment notice, a statement under section 146(8)(a) or (9)(d), and
  - (c) in relation to an enforcement notice, a statement under section 150(8)(a).