

FREEDOM OF INFORMATION ACT 2000

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part V: Appeals

Section 60: Appeals against national security certificate

195. *Section 60* provides that the Commissioner or any person whose request for information is affected by the issue of a certificate under section 23 or 24 may appeal to the Tribunal against the certificate.
196. *Sections 23(2)* and *24(3)* provide that any question of whether exemption under section 23 (information supplied by, or relating to, bodies dealing with security matters) or section 24 (national security) applies falls to be resolved by reference to a decision of a Minister of the Crown who may issue a certificate to the effect that the information is exempt information.
197. *Subsections (2)* and *(3)* provide that the Tribunal (which, under Schedule 6 to the Data Protection Act 1998 as amended by Schedule 4 to the Act, will be specially constituted for these appeals) may allow the appeal and quash the certificate if it finds, in the case of section 23(2) appeals, that the information was not exempt information or, in the case of section 24(3) appeals, that, applying the principles of judicial review, the Minister did not act reasonably in issuing the certificate.
198. *Subsections (4)* and *(5)* relate to certificates issued by a public authority which identify information by means of a general description as allowed under section 24(3). Subsection (4) provides that, if a public authority claims that particular information is covered by the certificate, any other party to the proceedings may appeal to the Tribunal on the grounds that the certificate does not apply to that information. The Tribunal may determine that the certificate does not apply. If it does not so determine, the certificate applies.