



# Freedom of Information Act 2000

## 2000 CHAPTER 36

### PART V

#### APPEALS

#### **57 Appeal against notices served under Part IV.**

- (1) Where a decision notice has been served, the complainant or the public authority may appeal to the Tribunal against the notice.
- (2) A public authority on which an information notice or an enforcement notice has been served by the Commissioner may appeal to the Tribunal against the notice.
- (3) In relation to a decision notice or enforcement notice which relates—
  - (a) to information to which section 66 applies, and
  - (b) to a matter which by virtue of subsection (3) or (4) of that section falls to be determined by the responsible authority instead of the appropriate records authority,

subsections (1) and (2) shall have effect as if the reference to the public authority were a reference to the public authority or the responsible authority.

#### **Modifications etc. (not altering text)**

- C1** S. 57 applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(8)(9)}
- C2** S. 57 applied (with modifications) (18.7.2015) by [The Re-use of Public Sector Information Regulations 2015 \(S.I. 2015/1415\)](#), regs. 1, **18** (with regs. 5, 11(4))
- C3** S. 57 excluded (18.7.2015) by [The Re-use of Public Sector Information Regulations 2015 \(S.I. 2015/1415\)](#), regs. 1, **22(7)** (with regs. 5, 11(4))
- C4** S. 57 applied (with modifications) (18.7.2015) by [The Re-use of Public Sector Information Regulations 2015 \(S.I. 2015/1415\)](#), regs. 1, **19** (with regs. 5, 11(4))

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*Changes to legislation: There are currently no known outstanding effects for the Freedom of Information Act 2000, Part V. (See end of Document for details)*

### Commencement Information

- II** S. 57 wholly in force at 1.1.2005; s. 57 not in force at Royal Assent, see s. 87(3); s. 57(2) in force at 30.11.2002 by S.I. 2002/2812, art. 2(g); s. 57(1)(3) in force for certain purposes at 1.1.2005 by S.I. 2004/1909, art. 2; s. 57(1)(3) otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

## 58 Determination of appeals.

- (1) If on an appeal under section 57 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 as could have been served by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (2) On such an appeal, the Tribunal may review any finding of fact on which the notice in question was based.

### Modifications etc. (not altering text)

- C5** S. 58 applied (with modifications) (31.12.2009) by [The INSPIRE Regulations 2009 \(S.I. 2009/3157\)](#), {reg. 11(1)-(3)(9)}
- C6** S. 58 applied (with modifications) (18.7.2015) by [The Re-use of Public Sector Information Regulations 2015 \(S.I. 2015/1415\)](#), regs. 1, **18** (with regs. 5, 11(4))
- C7** S. 58 applied (with modifications) (18.7.2015) by [The Re-use of Public Sector Information Regulations 2015 \(S.I. 2015/1415\)](#), regs. 1, **19** (with regs. 5, 11(4))
- C8** S. 58 excluded (18.7.2015) by [The Re-use of Public Sector Information Regulations 2015 \(S.I. 2015/1415\)](#), regs. 1, **22(7)** (with regs. 5, 11(4))

## 59 Appeals from decision of Tribunal.

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### Textual Amendments

- F1** S. 59 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. 69](#)

## 60 Appeals against national security certificate.

- (1) Where a certificate under section 23(2) or 24(3) has been issued—
- (a) the Commissioner, or
  - (b) any applicant whose request for information is affected by the issue of the certificate,
- may appeal to the Tribunal against the certificate.
- (2) If on an appeal under subsection (1) relating to a certificate under section 23(2), the Tribunal finds that the information referred to in the certificate was not exempt

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information by virtue of section 23(1), the Tribunal may allow the appeal and quash the certificate.

- (3) If on an appeal under subsection (1) relating to a certificate under section 24(3), the Tribunal finds that, applying the principles applied by the court on an application for judicial review, the Minister did not have reasonable grounds for issuing the certificate, the Tribunal may allow the appeal and quash the certificate.
- (4) Where in any proceedings under this Act it is claimed by a public authority that a certificate under section 24(3) which identifies the information to which it applies by means of a general description applies to particular information, any other party to the proceedings may appeal to the Tribunal on the ground that the certificate does not apply to the information in question and, subject to any determination under subsection (5), the certificate shall be conclusively presumed so to apply.
- (5) On any appeal under subsection (4), the Tribunal may determine that the certificate does not so apply.

#### Commencement Information

- I2** [S. 60](#) wholly in force at 1.1.2005; [s. 60](#) not in force at Royal Assent, see [s. 87\(3\)](#); [s. 60](#) in force for certain purposes at 1.1.2005 by [S.I. 2002/1909](#), [art. 2](#) and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), [art. 2](#)

## [<sup>F2</sup>61] Appeal proceedings

- (1) Tribunal Procedure Rules may make provision for regulating the exercise of rights of appeal conferred by sections 57(1) and (2) and 60(1) and (4).
- (2) In relation to appeals under those provisions, Tribunal Procedure Rules may make provision about—
  - (a) securing the production of material used for the processing of personal data, and
  - (b) the inspection, examination, operation and testing of equipment or material used in connection with the processing of personal data.
- (3) Subsection (4) applies where—
  - (a) a person does something, or fails to do something, in relation to proceedings before the First-tier Tribunal on an appeal under those provisions, and
  - (b) if those proceedings were proceedings before a court having power to commit for contempt, the act or omission would constitute contempt of court.
- (4) The First-tier Tribunal may certify the offence to the Upper Tribunal.
- (5) Where an offence is certified under subsection (4), the Upper Tribunal may—
  - (a) inquire into the matter, and
  - (b) deal with the person charged with the offence in any manner in which it could deal with the person if the offence had been committed in relation to the Upper Tribunal.
- (6) Before exercising the power under subsection (5)(b), the Upper Tribunal must—
  - (a) hear any witness who may be produced against or on behalf of the person charged with the offence, and

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(b) hear any statement that may be offered in defence.

(7) In this section, “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2), (4) and (14) of that Act).]

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**Textual Amendments**

**F2** S. 61 substituted (23.5.2018 for specified purposes, 25.5.2018 in so far as not already in force) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1)(2)(f), [Sch. 19 para. 60](#) (with ss. 117, 209, 210, [Sch. 20 para. 53](#)); S.I. 2018/625, reg. 2(1)(g)

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