



Freedom of Information Act 2000

2000 CHAPTER 36

PART IV

ENFORCEMENT

53 Exception from duty to comply with decision notice or enforcement notice.

- (1) This section applies to a decision notice or enforcement notice which—
 - (a) is served on—
 - (i) a government department,
 - [^{F1}(ii) the Welsh Assembly Government, or]
 - (iii) any public authority designated for the purposes of this section by an order made by the [^{F2}Minister for the Cabinet Office], and
 - (b) relates to a failure, in respect of one or more requests for information—
 - (i) to comply with section 1(1)(a) in respect of information which falls within any provision of Part II stating that the duty to confirm or deny does not arise, or
 - (ii) to comply with section 1(1)(b) in respect of exempt information.
- (2) A decision notice or enforcement notice to which this section applies shall cease to have effect if, not later than the twentieth working day following the effective date, the accountable person in relation to that authority gives the Commissioner a certificate signed by him stating that he has on reasonable grounds formed the opinion that, in respect of the request or requests concerned, there was no failure falling within subsection (1)(b).
- (3) Where the accountable person gives a certificate to the Commissioner under subsection (2) he shall as soon as practicable thereafter lay a copy of the certificate before—
 - (a) each House of Parliament,
 - (b) the Northern Ireland Assembly, in any case where the certificate relates to a decision notice or enforcement notice which has been served on a Northern Ireland department or any Northern Ireland public authority, or

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- [^{F3}(c) the National Assembly for Wales, in any case where the certificate relates to a decision notice or enforcement notice which has been served on—
- (i) the Welsh Assembly Government,
 - (ii) the National Assembly for Wales, or
 - (iii) any Welsh public authority.]
- (4) In subsection (2) “the effective date”, in relation to a decision notice or enforcement notice, means—
- (a) the day on which the notice was given to the public authority, or
 - (b) where an appeal under section 57 is brought, the day on which that appeal (or any further appeal arising out of it) is determined or withdrawn.
- (5) Before making an order under subsection (1)(a)(iii), the [^{F4}Minister for the Cabinet Office] shall—
- (a) if the order relates to a Welsh public authority, consult [^{F5}the Welsh Ministers],
 - [^{F6}(aa) if the order relates to the National Assembly for Wales, consult the Presiding Officer of that Assembly,]
 - (b) if the order relates to the Northern Ireland Assembly, consult the Presiding Officer of that Assembly, and
 - (c) if the order relates to a Northern Ireland public authority, consult the First Minister and deputy First Minister in Northern Ireland.
- (6) Where the accountable person gives a certificate to the Commissioner under subsection (2) in relation to a decision notice, the accountable person shall, on doing so or as soon as reasonably practicable after doing so, inform the person who is the complainant for the purposes of section 50 of the reasons for his opinion.
- (7) The accountable person is not obliged to provide information under subsection (6) if, or to the extent that, compliance with that subsection would involve the disclosure of exempt information.
- (8) In this section “the accountable person”—
- (a) in relation to a Northern Ireland department or any Northern Ireland public authority, means the First Minister and deputy First Minister in Northern Ireland acting jointly,
 - [^{F7}(b) in relation the Welsh Assembly Government, the National Assembly for Wales or any Welsh public authority, means the First Minister for Wales, and]
 - (c) in relation to any other public authority, means—
 - (i) a Minister of the Crown who is a member of the Cabinet, or
 - (ii) the Attorney General, the Advocate General for Scotland or the Attorney General for Northern Ireland.
- (9) In this section “working day” has the same meaning as in section 10.

Textual Amendments

- F1** S. 53(1)(a)(ii) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, [Sch. 1 para. 83\(2\)](#) (the amendment coming into force immediately after the end of “the initial period” (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see [ss. 46, 161\(5\) of Government of Wales Act 2006 \(c. 32\)](#))

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- F2** Words in s. 53(1)(a)(iii) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 14(2)(n)** (with art. 12)
- F3** S. 53(3)(c) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(3)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))
- F4** Words in s. 53(5) substituted (9.11.2016) by [The Transfer of Functions \(Elections, Referendums, Third Sector and Information\) Order 2016 \(S.I. 2016/997\)](#), art. 1(2), **Sch. 2 para. 14(2)(n)** (with art. 12)
- F5** Words in s. 53(5)(a) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(4)(a)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))
- F6** S. 53(5)(aa) inserted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(4)(b)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))
- F7** S. 53(8)(b) substituted by [The Government of Wales Act 2006 \(Consequential Modifications and Transitional Provisions\) Order 2007 \(S.I. 2007/1388\)](#), art. 3, **Sch. 1 para. 83(5)** (the amendment coming into force immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) in accordance with art. 1(2)(3) of the amending S.I. and see ss. 46, 161(5) of [Government of Wales Act 2006 \(c. 32\)](#))

Modifications etc. (not altering text)

- C1** S. 53(1)(a)(iii) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **4(1)**, (2)(j) (with art. 5)
- C2** S. 53(5) functions transferred (9.12.2015) by [The Transfer of Functions \(Information and Public Records\) Order 2015 \(S.I. 2015/1897\)](#), arts. 1(2), **4(1)**, (2)(j) (with art. 5)

Commencement Information

- I1** S. 53 wholly in force at 1.1.2005; s. 53 in force at Royal Assent to the extent that it confers power to make an order, see s. 87(1)(m)(3); s. 53 in force for certain further purposes at 1.1.2005 by [S.I. 2004/1909](#), **art. 2** and otherwise in force at 1.1.2005 by [S.I. 2004/3122](#), **art. 2**

Changes to legislation:

There are currently no known outstanding effects for the Freedom of Information Act 2000, Section 53.