



# Data Protection Act 1998

## 1998 CHAPTER 29

### PART V

#### ENFORCEMENT

#### **49 Determination of appeals**

- (1) If on an appeal under section 48(1) 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 or decision as could have been served or made by the Commissioner; and in any other case the Tribunal shall dismiss the appeal.
- (2) On such an appeal, the Tribunal may review any determination of fact on which the notice in question was based.
- (3) If on an appeal under section 48(2) the Tribunal considers that the enforcement notice ought to be cancelled or varied by reason of a change in circumstances, the Tribunal shall cancel or vary the notice.
- (4) On an appeal under subsection (3) of section 48 the Tribunal may direct—
  - (a) that the notice in question shall have effect as if it did not contain any such statement as is mentioned in that subsection, or
  - (b) that the inclusion of the statement shall not have effect in relation to any part of the notice,and may make such modifications in the notice as may be required for giving effect to the direction.
- (5) On an appeal under section 48(4), the Tribunal may cancel the determination of the Commissioner.

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*Status: This is the original version (as it was originally enacted).*

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- (6) Any party to an appeal to the Tribunal under section 48 may appeal from the decision of the Tribunal on a point of law to the appropriate court; and that court shall be—
- (a) the High Court of Justice in England if the address of the person who was the appellant before the Tribunal is in England or Wales,
  - (b) the Court of Session if that address is in Scotland, and
  - (c) the High Court of Justice in Northern Ireland if that address is in Northern Ireland.
- (7) For the purposes of subsection (6)—
- (a) the address of a registered company is that of its registered office, and
  - (b) the address of a person (other than a registered company) carrying on a business is that of his principal place of business in the United Kingdom.