

2005 No. 450

**FREEDOM OF INFORMATION
DATA PROTECTION**

**The Information Tribunal (Enforcement Appeals) (Amendment)
Rules 2005**

<i>Made</i> - - - -	<i>2nd March 2005</i>
<i>Laid before Parliament</i>	<i>4th March 2005</i>
<i>Coming into force</i> - -	<i>11th March 2005</i>

The Secretary of State, in exercise of the powers conferred upon him^(a) by section 67(2) of, and paragraph 7 of Schedule 6 to, the Data Protection Act 1998^(b), and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992^(c), hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Information Tribunal (Enforcement Appeals) (Amendment) Rules 2005 and come into force on 11th March 2005.

Amendment to the Information Tribunal (Enforcement Appeals) Rules 2005

2. The Information Tribunal (Enforcement Appeals) Rules 2005^(d) are amended in accordance with these Rules.

3. Rule 4(2)(b)(iv) is replaced with—

“(iv) where the appeal is brought under a provision of the 2000 Act, or the 2000 Act as applied, as modified, by regulation 18 of the 2004 Regulations, the name and address of the public authority to which the disputed decision relates;”

4. Rule 14(9) is replaced with—

(a) The functions of the Secretary of State under section 67(2) of, and paragraph 7 of Schedule 6 to, the Data Protection Act 1998 were transferred to the Lord Chancellor by the Transfer of Functions (Miscellaneous) Order 2001 (S.I. 2001/3500), which Order amended section 67(2) and Schedule 6 accordingly. The functions of the Lord Chancellor under section 67(2) and paragraph 7 of Schedule 6 as amended were transferred back to the Secretary of State by the Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), which Order amended section 67(2) and Schedule 6 accordingly.

(b) 1998 c. 29. Paragraph 7 of Schedule 6 to the Data Protection Act 1998 was amended by paragraph 4 of Schedule 4 to the Freedom of Information Act 2000 (2000 c. 36).

(c) 1992 c. 53.

(d) S.I. 2005/14.

“(9) If a party does not comply with any direction given under these Rules, the Tribunal may—

- (a) dismiss the whole or part of the appeal or application; or
- (b) strike out the whole or part of a public authority’s, the Commissioner’s or another party’s notice in reply and where it does so, it may direct that any of them shall not contest the appeal.”.

5. In rule 25, “10 to 15” is replaced with “10 to 16”.

6. In rule 26, “or section 57(1) of the 2000 Act” is inserted after “the 1998 Act”.

Signed by authority of the Lord Chancellor

2nd March 2005

Cathy Ashton
Parliamentary Under Secretary of State
Department for Constitutional Affairs

EXPLANATORY NOTE

(This note is not part of the Order)

These Rules, which have been prepared in consultation with the Council on Tribunals, make a small number of amendments to the Information Tribunal (Enforcement Appeals) Rules 2005 (S.I. 2005/14).

Rule 3 amends rule 4(2)(b)(iv), to make it clear that, in relation to appeals under the Freedom of Information Act 2000 (and the provisions of that Act as applied, as modified by regulation 18 of the Environmental Information Regulations 2004 (S.I. 2004/3391)), it is not the public authority who would have issued a disputed decision; the rule needs to refer to the public authority in respect of which a disputed decision has been made.

Rule 4 amends rule 14(9), to remove the reference to a Minister’s and a respondent data controller’s replies, and to ensure that a joined party’s notice in reply could be struck out.

Rule 5 amends rule 25 to ensure that the chairman may act for the Tribunal in determining whether an appeal should be determined without a hearing.

Rule 6 amends rule 26 so as to remove from the Information Commissioner the burden of proving that a decision notice under section 57(1) of the Freedom of Information Act 2000 should be upheld.

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