



Protection of Freedoms Act 2012

2012 CHAPTER 9

PART 6

FREEDOM OF INFORMATION AND DATA PROTECTION

The Information Commissioner

105 Appointment and tenure of Information Commissioner

- (1) In paragraph 2(1) of Schedule 5 to the Data Protection Act 1998 (maximum term of appointment for the Information Commissioner) for “five years” substitute “ seven years ”.
- (2) After paragraph 2(3) of that Schedule to that Act (removal of the Information Commissioner from office) insert—

“(3A) No motion is to be made in either House of Parliament for such an Address unless a Minister of the Crown has presented a report to that House stating that the Minister is satisfied that one or more of the following grounds is made out—

- (a) the Commissioner has failed to discharge the functions of the office for a continuous period of at least 3 months,
- (b) the Commissioner has failed to comply with the terms of appointment,
- (c) the Commissioner has been convicted of a criminal offence,
- (d) the Commissioner is an undischarged bankrupt or the Commissioner's estate has been sequestrated in Scotland and the Commissioner has not been discharged,
- (e) the Commissioner has made an arrangement or composition contract with, or has granted a trust deed for, the Commissioner's creditors,
- (f) the Commissioner is otherwise unfit to hold the office or unable to carry out its functions.

Changes to legislation: Protection of Freedoms Act 2012, Section 105 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3B) No recommendation may be made to Her Majesty for the appointment of a person as the Commissioner unless the person concerned has been selected on merit on the basis of fair and open competition.
- (3C) A person appointed as the Commissioner may not be appointed again for a further term of office.”
- (3) Omit paragraph 2(4) and (5) of that Schedule to that Act (termination of term of office on attaining 65 years of age etc. and eligibility for re-appointment).
- (4) In the italic heading to paragraph 2 of that Schedule to that Act, after “office” insert “ and appointment ”.
- (5) Omit section 18(5) to (7) of the Freedom of Information Act 2000 (spent provisions about period of office of Data Protection Commissioner as first Information Commissioner and application of paragraph 2(4)(b) and (5) of Schedule 5 to the Act of 1998 to that person).

Commencement Information

II S. 105 in force at 16.3.2015 by [S.I. 2015/587](#), [art. 2\(a\)](#)

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2012/2234 art. 13 by [S.I. 2014/831 art. 2\(2\)](#)
- specified provision(s) transitional provisions and savings for commencing S.I. 2013/1814 by [S.I. 2013/1813 art. 2-9](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 1 para. 7A inserted by [2019 c. 3 Sch. 2 para. 20](#)