



Data Protection Act 2018

2018 CHAPTER 12

PART 5

THE INFORMATION COMMISSIONER

Information provided to the Commissioner

131 Disclosure of information to the Commissioner

- (1) No enactment or rule of law prohibiting or restricting the disclosure of information precludes a person from providing the Commissioner with information necessary for the discharge of the Commissioner's functions.
- (2) But this section does not authorise the making of a disclosure which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2) has effect as if it included a reference to that Part.

132 Confidentiality of information

- (1) A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—
 - (a) has been obtained by, or provided to, the Commissioner in the course of, or for the purposes of, the discharging of the Commissioner's functions,
 - (b) relates to an identified or identifiable individual or business, and
 - (c) is not available to the public from other sources at the time of the disclosure and has not previously been available to the public from other sources,unless the disclosure is made with lawful authority.
- (2) For the purposes of subsection (1), a disclosure is made with lawful authority only if and to the extent that—

Changes to legislation: Data Protection Act 2018, Cross Heading: Information provided to the Commissioner is up to date with all changes known to be in force on or before 12 May 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

- (a) the disclosure was made with the consent of the individual or of the person for the time being carrying on the business,
 - (b) the information was obtained or provided as described in subsection (1)(a) for the purpose of its being made available to the public (in whatever manner),
 - (c) the disclosure was made for the purposes of, and is necessary for, the discharge of one or more of the Commissioner's functions,
 - ^{F1}(d)
 - (e) the disclosure was made for the purposes of criminal or civil proceedings, however arising, or
 - (f) having regard to the rights, freedoms and legitimate interests of any person, the disclosure was necessary in the public interest.
- (3) It is an offence for a person knowingly or recklessly to disclose information in contravention of subsection (1).

Textual Amendments

- ^{F1} S. 132(2)(d) omitted (31.12.2020) by virtue of [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), [Sch. 2 para. 55](#) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

133 Guidance about privileged communications

- (1) The Commissioner must produce and publish guidance about—
- (a) how the Commissioner proposes to secure that privileged communications which the Commissioner obtains or has access to in the course of carrying out the Commissioner's functions are used or disclosed only so far as necessary for carrying out those functions, and
 - (b) how the Commissioner proposes to comply with restrictions and prohibitions on obtaining or having access to privileged communications which are imposed by an enactment.
- (2) The Commissioner—
- (a) may alter or replace the guidance, and
 - (b) must publish any altered or replacement guidance.
- (3) The Commissioner must consult the Secretary of State before publishing guidance under this section (including altered or replacement guidance).
- (4) The Commissioner must arrange for guidance under this section (including altered or replacement guidance) to be laid before Parliament.
- (5) In this section, “privileged communications” means—
- (a) communications made—
 - (i) between a professional legal adviser and the adviser's client, and
 - (ii) in connection with the giving of legal advice to the client with respect to legal obligations, liabilities or rights, and
 - (b) communications made—
 - (i) between a professional legal adviser and the adviser's client or between such an adviser or client and another person,
 - (ii) in connection with or in contemplation of legal proceedings, and

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(iii) for the purposes of such proceedings.

(6) In subsection (5)—

- (a) references to the client of a professional legal adviser include references to a person acting on behalf of the client, and
- (b) references to a communication include—
 - (i) a copy or other record of the communication, and
 - (ii) anything enclosed with or referred to in the communication if made as described in subsection (5)(a)(ii) or in subsection (5)(b)(ii) and (iii).

Changes to legislation:

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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):

- s. 204(1)(l) inserted by [S.I. 2024/374 Sch. 5 para. 7](#)
- Sch. 3 para. 8(1)(y) added by [2022 c. 18 \(N.I.\) Sch. 3 para. 78\(3\)](#)