
Changes to legislation: Data Protection Act 2018, SCHEDULE 12 is up to date with all changes known to be in force on or before 19 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

SCHEDULES

SCHEDULE 12

Section 114

THE INFORMATION COMMISSIONER

Status and capacity

- 1 (1) The Commissioner is to continue to be a corporation sole.
- (2) The Commissioner and the Commissioner's officers and staff are not to be regarded as servants or agents of the Crown.

Appointment

- 2 (1) The Commissioner is to be appointed by Her Majesty by Letters Patent.
- (2) 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.
- (3) The Commissioner is to hold office for such term not exceeding 7 years as may be determined at the time of the Commissioner's appointment, subject to paragraph 3.
- (4) A person cannot be appointed as the Commissioner more than once.

Resignation and removal

- 3 (1) The Commissioner may be relieved of office by Her Majesty at the Commissioner's own request.
- (2) The Commissioner may be removed from office by Her Majesty on an Address from both Houses of Parliament.
- (3) 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 both of the following grounds is made out—
 - (a) the Commissioner is guilty of serious misconduct;
 - (b) the Commissioner no longer fulfils the conditions required for the performance of the Commissioner's functions.

Salary etc

- 4 (1) The Commissioner is to be paid such salary as may be specified by a resolution of the House of Commons.
- (2) There is to be paid in respect of the Commissioner such pension as may be specified by a resolution of the House of Commons.
- (3) A resolution for the purposes of this paragraph may—

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- (a) specify the salary or pension,
 - (b) specify the salary or pension and provide for it to be increased by reference to such variables as may be specified in the resolution, or
 - (c) provide that the salary or pension is to be the same as, or calculated on the same basis as, that payable to, or in respect of, a person employed in a specified office under, or in a specified capacity in the service of, the Crown.
- (4) A resolution for the purposes of this paragraph may take effect from—
- (a) the date on which it is passed, or
 - (b) from an earlier date or later date specified in the resolution.
- (5) A resolution for the purposes of this paragraph may make different provision in relation to the pension payable to, or in respect of, different holders of the office of Commissioner.
- (6) A salary or pension payable under this paragraph is to be charged on and issued out of the Consolidated Fund.
- (7) In this paragraph, “pension” includes an allowance or gratuity and a reference to the payment of a pension includes a reference to the making of payments towards the provision of a pension.

Officers and staff

- 5 (1) The Commissioner—
- (a) must appoint one or more deputy commissioners, and
 - (b) may appoint other officers and staff.
- (2) The Commissioner is to determine the remuneration and other conditions of service of people appointed under this paragraph.
- (3) The Commissioner may pay pensions, allowances or gratuities to, or in respect of, people appointed under this paragraph, including pensions, allowances or gratuities paid by way of compensation in respect of loss of office or employment.
- (4) The references in sub-paragraph (3) to paying pensions, allowances or gratuities includes making payments towards the provision of pensions, allowances or gratuities.
- (5) In making appointments under this paragraph, the Commissioner must have regard to the principle of selection on merit on the basis of fair and open competition.
- (6) The Employers' Liability (Compulsory Insurance) Act 1969 does not require insurance to be effected by the Commissioner.

Carrying out of the Commissioner's functions by officers and staff

- 6 (1) The functions of the Commissioner are to be carried out by the deputy commissioner or deputy commissioners if—
- (a) there is a vacancy in the office of the Commissioner, or
 - (b) the Commissioner is for any reason unable to act.
- (2) When the Commissioner appoints a second or subsequent deputy commissioner, the Commissioner must specify which deputy commissioner is to carry out which of the Commissioner's functions in the circumstances referred to in sub-paragraph (1).

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- (3) A function of the Commissioner may, to the extent authorised by the Commissioner, be carried out by any of the Commissioner's officers or staff.

Authentication of the seal of the Commissioner

- 7 The application of the seal of the Commissioner is to be authenticated by—
- (a) the Commissioner's signature, or
 - (b) the signature of another person authorised for the purpose.

Presumption of authenticity of documents issued by the Commissioner

- 8 A document purporting to be an instrument issued by the Commissioner and to be—
- (a) duly executed under the Commissioner's seal, or
 - (b) signed by or on behalf of the Commissioner,
- is to be received in evidence and is to be deemed to be such an instrument unless the contrary is shown.

Money

- 9 The Secretary of State may make payments to the Commissioner out of money provided by Parliament.

Fees etc and other sums

- 10 (1) All fees, charges, penalties and other sums received by the Commissioner in carrying out the Commissioner's functions are to be paid by the Commissioner to the Secretary of State.
- (2) Sub-paragraph (1) does not apply where the Secretary of State, with the consent of the Treasury, otherwise directs.
- (3) Any sums received by the Secretary of State under sub-paragraph (1) are to be paid into the Consolidated Fund.

Accounts

- 11 (1) The Commissioner must—
- (a) keep proper accounts and other records in relation to the accounts, and
 - (b) prepare in respect of each financial year a statement of account in such form as the Secretary of State may direct.
- (2) The Commissioner must send a copy of the statement to the Comptroller and Auditor General—
- (a) on or before 31 August next following the end of the year to which the statement relates, or
 - (b) on or before such earlier date after the end of that year as the Treasury may direct.
- (3) The Comptroller and Auditor General must examine, certify and report on the statement.

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- (4) The Commissioner must arrange for copies of the statement and the Comptroller and Auditor General's report to be laid before Parliament.
- (5) In this paragraph, “financial year” means a period of 12 months beginning with 1 April.

Scotland

12 Paragraphs 1(1), 7 and 8 do not extend to Scotland.

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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\(3\)](#)