



# Data Protection Act 1998

## 1998 CHAPTER 29

### PART V

#### ENFORCEMENT

#### 44 Special information notices

- (1) If the Commissioner—
- (a) has received a request under section 42 in respect of any processing of personal data, or
  - (b) has reasonable grounds for suspecting that, in a case in which proceedings have been stayed under section 32, the personal data to which the proceedings relate—
    - (i) are not being processed only for the special purposes, or
    - (ii) are not being processed with a view to the publication by any person of any journalistic, literary or artistic material which has not previously been published by the data controller,
- he may serve the data controller with a notice (in this Act referred to as a “special information notice”) requiring the data controller, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information as is so specified for the purpose specified in subsection (2).
- (2) That purpose is the purpose of ascertaining—
- (a) whether the personal data are being processed only for the special purposes, or
  - (b) whether they are being processed with a view to the publication by any person of any journalistic, literary or artistic material which has not previously been published by the data controller.
- (3) A special information notice must contain—
- (a) in a case falling within paragraph (a) of subsection (1), a statement that the Commissioner has received a request under section 42 in relation to the specified processing, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) in a case falling within paragraph (b) of that subsection, a statement of the Commissioner's grounds for suspecting that the personal data are not being processed as mentioned in that paragraph.
- (4) A special information notice must also contain particulars of the rights of appeal conferred by section 48.
- (5) Subject to subsection (6), the time specified in a special information notice shall not expire before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the information need not be furnished pending the determination or withdrawal of the appeal.
- (6) If by reason of special circumstances the Commissioner considers that the information is required as a matter of urgency, he may include in the notice a statement to that effect and a statement of his reasons for reaching that conclusion; and in that event subsection (5) shall not apply, but the notice shall not require the information to be furnished before the end of the period of seven days beginning with the day on which the notice is served.
- (7) A person shall not be required by virtue of this section to furnish the Commissioner with any information in respect of—
  - (a) any communication between a professional legal adviser and his client in connection with the giving of legal advice to the client with respect to his obligations, liabilities or rights under this Act, or
  - (b) any communication between a professional legal adviser and his client, or between such an adviser or his client and any other person, made in connection with or in contemplation of proceedings under or arising out of this Act (including proceedings before the Tribunal) and for the purposes of such proceedings.
- (8) In subsection (7) references to the client of a professional legal adviser include references to any person representing such a client.
- (9) A person shall not be required by virtue of this section to furnish the Commissioner with any information if the furnishing of that information would, by revealing evidence of the commission of any offence other than an offence under this Act, expose him to proceedings for that offence.
- (10) The Commissioner may cancel a special information notice by written notice to the person on whom it was served.