



Data Protection Act 2018

2018 CHAPTER 12

PART 5

THE INFORMATION COMMISSIONER

General functions

115 General functions under the [F¹UK GDPR] and safeguards

^{F2}(1)

- (2) General functions are conferred on the Commissioner by—
 - (a) Article 57 of the [F³UK GDPR] (tasks), and
 - (b) Article 58 of the [F⁴UK GDPR] (powers),(and see also the Commissioner's duty under section 2 [F⁵] and section 28(5)).
- (3) The Commissioner's functions in relation to the processing of personal data to which the [F⁶UK GDPR] applies include—
 - (a) a duty to advise Parliament, the government and other institutions and bodies on legislative and administrative measures relating to the protection of individuals' rights and freedoms with regard to the processing of personal data, and
 - (b) a power to issue, on the Commissioner's own initiative or on request, opinions to Parliament, the government or other institutions and bodies as well as to the public on any issue related to the protection of personal data.
- (4) The Commissioner's functions under Article 58 of the [F⁷UK GDPR] are subject to the safeguards in subsections (5) to (9).
- (5) The Commissioner's power under Article 58(1)(a) of the [F⁸UK GDPR] (power to require a controller or processor to provide information that the Commissioner requires for the performance of the Commissioner's tasks under the [F⁸UK GDPR]) is exercisable only by giving an information notice under section 142.

Changes to legislation: Data Protection Act 2018, Cross Heading: General functions 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

- (6) The Commissioner's power under Article 58(1)(b) of the [F⁹UK GDPR] (power to carry out data protection audits) is exercisable only in accordance with section 146.
- (7) The Commissioner's powers under Article 58(1)(e) and (f) of the [F¹⁰UK GDPR] (power to obtain information from controllers and processors and access to their premises) are exercisable only—
- (a) in accordance with Schedule 15 (see section 154), or
 - (b) to the extent that they are exercised in conjunction with the power under Article 58(1)(b) of the [F¹⁰UK GDPR], in accordance with section 146.
- (8) The following powers are exercisable only by giving an enforcement notice under section 149—
- (a) the Commissioner's powers under Article 58(2)(c) to (g) and (j) of the [F¹¹UK GDPR] (certain corrective powers);
 - (b) the Commissioner's powers under Article 58(2)(h) to order a certification body to withdraw, or not to issue, a certification under Articles 42 and 43 of the [F¹²UK GDPR].
- (9) The Commissioner's powers under Articles 58(2)(i) and 83 of the [F¹³UK GDPR] (administrative fines) are exercisable only by giving a penalty notice under section 155.
- (10) This section is without prejudice to other functions conferred on the Commissioner, whether by the [F¹⁴UK GDPR], this Act or otherwise.

Textual Amendments

- F1** Words in s. 115 heading substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 115(1) 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. 47(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 115(2)(a) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(4)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 115(2)(b) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(4)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 115(2) inserted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(4)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 115(3) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(5)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 115(4) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(5)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in s. 115(5) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(6)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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- F9** Words in s. 115(6) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(7)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in s. 115(7) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(8)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in s. 115(8)(a) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(9)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in s. 115(8)(b) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(9)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in s. 115(9) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(10)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in s. 115(10) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 47(10)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

116 Other general functions

[^{F15}(A1) The Commissioner is responsible for monitoring the application of Part 3 of this Act, in order to protect the fundamental rights and freedoms of individuals in relation to processing by a competent authority for any of the law enforcement purposes (as defined in Part 3) and to facilitate the free flow of personal data.]

- (1) The Commissioner—
 - ^{F16}(a)
 - (b) is to continue to be the designated authority in the United Kingdom for the purposes of Article 13 of the Data Protection Convention.
- (2) Schedule 13 confers general functions on the Commissioner in connection with processing to which the [^{F17}UK GDPR] does not apply (and see also the Commissioner's duty under section 2).
- (3) This section and Schedule 13 are without prejudice to other functions conferred on the Commissioner, whether by this Act or otherwise.

Textual Amendments

- F15** S. 116(A1) inserted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 48(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F16** S. 116(1)(a) 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. 48(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F17** Words in s. 116(2) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 48(4)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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117 Competence in relation to courts etc

Nothing in this Act [^{F18}or the UK GDPR] permits or requires the Commissioner to exercise functions in relation to the processing of personal data by—

- (a) an individual acting in a judicial capacity, or
- (b) a court or tribunal acting in its judicial capacity ^{F19}...

^{F19}
....

Textual Amendments

F18 Words in s. 117 inserted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 2 para. 49(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

F19 Words and comma in s. 117 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. 49(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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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\(3\)](#)