



Data Protection Act 2018

2018 CHAPTER 12

PART 7

SUPPLEMENTARY AND FINAL PROVISION

General

208 Children in Scotland

- (1) Subsections (2) and (3) apply where a question falls to be determined in Scotland as to the legal capacity of a person aged under 16 to—
 - (a) exercise a right conferred by the data protection legislation, or
 - (b) give consent for the purposes of the data protection legislation.
- (2) The person is to be taken to have that capacity where the person has a general understanding of what it means to exercise the right or give such consent.
- (3) A person aged 12 or over is to be presumed to be of sufficient age and maturity to have such understanding, unless the contrary is shown.

209 Application to the Crown

- (1) This Act binds the Crown.
- (2) For the purposes of the [F¹UK GDPR] and this Act, each government department is to be treated as a person separate from the other government departments (to the extent that is not already the case).
- (3) Where government departments are not able to enter into contracts with each other, a provision of the [F²UK GDPR] or this Act that would require relations between them to be governed by a contract (or other binding legal act) in writing is to be treated as satisfied if the relations are the subject of a memorandum of understanding between them.

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- (4) Where the purposes for which and the manner in which personal data is, or is to be, processed are determined by a person acting on behalf of the Royal Household, the Duchy of Lancaster or the Duchy of Cornwall, the controller in respect of that data for the purposes of the [F³UK GDPR] and this Act is—
- (a) in relation to the Royal Household, the Keeper of the Privy Purse,
 - (b) in relation to the Duchy of Lancaster, such person as the Chancellor of the Duchy appoints, and
 - (c) in relation to the Duchy of Cornwall, such person as the Duke of Cornwall, or the possessor for the time being of the Duchy of Cornwall, appoints.
- (5) Different persons may be appointed under subsection (4)(b) or (c) for different purposes.
- (6) As regards criminal liability—
- (a) a government department is not liable to prosecution under this Act;
 - (b) nothing in subsection (4) makes a person who is a controller by virtue of that subsection liable to prosecution under this Act;
 - (c) a person in the service of the Crown is liable to prosecution under the provisions of this Act listed in subsection (7).
- (7) Those provisions are—
- (a) section 119;
 - (b) section 170;
 - (c) section 171;
 - (d) section 173;
 - (e) paragraph 15 of Schedule 15.

Textual Amendments

- F1** Words in s. 209(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. 88** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 209(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. 88** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 209(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. 88** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

210 Application to Parliament

- (1) Parts 1, 2 and 5 to 7 of this Act apply to the processing of personal data by or on behalf of either House of Parliament.
- (2) Where the purposes for which and the manner in which personal data is, or is to be, processed are determined by or on behalf of the House of Commons, the controller in respect of that data for the purposes of the [F⁴UK GDPR] and this Act is the Corporate Officer of that House.
- (3) Where the purposes for which and the manner in which personal data is, or is to be, processed are determined by or on behalf of the House of Lords, the controller in

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respect of that data for the purposes of the [F5UK GDPR] and this Act is the Corporate Officer of that House.

- (4) Subsections (2) and (3) do not apply where the purposes for which and the manner in which the personal data is, or is to be, processed are determined by or on behalf of the Intelligence and Security Committee of Parliament.
- (5) As regards criminal liability—
 - (a) nothing in subsection (2) or (3) makes the Corporate Officer of the House of Commons or the Corporate Officer of the House of Lords liable to prosecution under this Act;
 - (b) a person acting on behalf of either House of Parliament is liable to prosecution under the provisions of this Act listed in subsection (6).
- (6) Those provisions are—
 - (a) section 170;
 - (b) section 171;
 - (c) section 173;
 - (d) paragraph 15 of Schedule 15.

Textual Amendments

- F4** Words in s. 210(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. 89** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 210(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. 89** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

211 Minor and consequential provision

- (1) In Schedule 19—
 - (a) Part 1 contains minor and consequential amendments of primary legislation;
 - (b) Part 2 contains minor and consequential amendments of other legislation;
 - (c) Part 3 contains consequential modifications of legislation;
 - (d) Part 4 contains supplementary provision.
- (2) The Secretary of State may by regulations make provision that is consequential on any provision made by this Act.
- (3) Regulations under subsection (2)—
 - (a) may include transitional, transitory or saving provision;
 - (b) may amend, repeal or revoke an enactment.
- (4) The reference to an enactment in subsection (3)(b) does not include an enactment passed or made after the end of the Session in which this Act is passed.
- (5) Regulations under this section that amend, repeal or revoke primary legislation are subject to the affirmative resolution procedure.
- (6) Any other regulations under this section are subject to the negative resolution procedure.

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(7) In this section, “primary legislation” means—

- (a) an Act;
- (b) an Act of the Scottish Parliament;
- (c) a Measure or Act of the National Assembly for Wales;
- (d) Northern Ireland legislation.

Commencement Information

II [S. 211](#) in force at Royal Assent for specified purposes, see [s. 212\(2\)\(f\)](#)

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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\(3\)](#)