



Data Protection Act 1998

1998 CHAPTER 29

PART II

RIGHTS OF DATA SUBJECTS AND OTHERS

12 Rights in relation to automated decision-taking

- (1) An individual is entitled at any time, by notice in writing to any data controller, to require the data controller to ensure that no decision taken by or on behalf of the data controller which significantly affects that individual is based solely on the processing by automatic means of personal data in respect of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his performance at work, his creditworthiness, his reliability or his conduct.
- (2) Where, in a case where no notice under subsection (1) has effect, a decision which significantly affects an individual is based solely on such processing as is mentioned in subsection (1)—
 - (a) the data controller must as soon as reasonably practicable notify the individual that the decision was taken on that basis, and
 - (b) the individual is entitled, within twenty-one days of receiving that notification from the data controller, by notice in writing to require the data controller to reconsider the decision or to take a new decision otherwise than on that basis.
- (3) The data controller must, within twenty-one days of receiving a notice under subsection (2)(b) (“the data subject notice”) give the individual a written notice specifying the steps that he intends to take to comply with the data subject notice.
- (4) A notice under subsection (1) does not have effect in relation to an exempt decision; and nothing in subsection (2) applies to an exempt decision.
- (5) In subsection (4) “exempt decision” means any decision—
 - (a) in respect of which the condition in subsection (6) and the condition in subsection (7) are met, or
 - (b) which is made in such other circumstances as may be prescribed by the Secretary of State by order.

Status: This is the original version (as it was originally enacted).

- (6) The condition in this subsection is that the decision—
- (a) is taken in the course of steps taken—
 - (i) for the purpose of considering whether to enter into a contract with the data subject,
 - (ii) with a view to entering into such a contract, or
 - (iii) in the course of performing such a contract, or
 - (b) is authorised or required by or under any enactment.
- (7) The condition in this subsection is that either—
- (a) the effect of the decision is to grant a request of the data subject, or
 - (b) steps have been taken to safeguard the legitimate interests of the data subject (for example, by allowing him to make representations).
- (8) If a court is satisfied on the application of a data subject that a person taking a decision in respect of him (“the responsible person”) has failed to comply with subsection (1) or (2)(b), the court may order the responsible person to reconsider the decision, or to take a new decision which is not based solely on such processing as is mentioned in subsection (1).
- (9) An order under subsection (8) shall not affect the rights of any person other than the data subject and the responsible person.