



# 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 [<sup>F1</sup>to furnish the Commissioner with specified information for the purpose specified in subsection (2).]

[<sup>F2</sup>(1A) In subsection (1) “specified information” means information—

- (a) specified, or described, in the special information notice, or
- (b) falling within a category which is specified, or described, in the special information notice.

(1B) The Commissioner may also specify in the special information notice—

- (a) the form in which the information must be furnished;
- (b) the period within which, or the time and place at which, the information must be furnished.]

(2) That purpose is the purpose of ascertaining—

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*Status: Point in time view as at 22/04/2014. This version of this provision has been superseded.*

*Changes to legislation: Data Protection Act 1998, Section 44 is up to date with all changes known to be in force on or before 15 May 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)*

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- (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
  - (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), [<sup>F3</sup>a period specified in a special information notice under subsection (1B)(b) must not end, and a time so specified must not fall,] 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 [<sup>F4</sup>, other than an offence under this Act or an offence within subsection (9A),] expose him to proceedings for that offence.
- [<sup>F5</sup>(9A) The offences mentioned in subsection (9) are—
- (a) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath),
  - (b) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath), or

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- (c) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).
- (9B) Any relevant statement provided by a person in response to a requirement under this section may not be used in evidence against that person on a prosecution for any offence under this Act (other than an offence under section 47) unless in the proceedings—
- (a) in giving evidence the person provides information inconsistent with it, and
  - (b) evidence relating to it is adduced, or a question relating to it is asked, by that person or on that person's behalf.
- (9C) In subsection (9B) “relevant statement”, in relation to a requirement under this section, means—
- (a) an oral statement, or
  - (b) a written statement made for the purposes of the requirement.]
- (10) The Commissioner may cancel a special information notice by written notice to the person on whom it was served.

#### Textual Amendments

- F1** Words in s. 44(1) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 9(2)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19
- F2** S. 44(1A)(1B) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 9(3)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19
- F3** Words in s. 44(5) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 9(4)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19
- F4** Words in s. 44(9) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 11(2)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19
- F5** S. 44(9A)-(9C) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 11(3)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

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