



# Data Protection Act 2018

## 2018 CHAPTER 12

### PART 5

#### THE INFORMATION COMMISSIONER

##### *International role*

#### 118 [F1Co-operation between parties to the Data Protection Convention]

F2(1) .....

F2(2) .....

F2(3) .....

F2(4) .....

(5) Part 2 of Schedule 14 makes provision as to the functions to be carried out by the Commissioner for the purposes of Article 13 of the Data Protection Convention (co-operation between parties).

#### **Textual Amendments**

- F1** S. 118 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. 50(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** S. 118(1)-(4) 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. 50(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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## 119 Inspection of personal data in accordance with international obligations

- (1) The Commissioner may inspect personal data where the inspection is necessary in order to discharge an international obligation of the United Kingdom, subject to the restriction in subsection (2).
- (2) The power under subsection (1) is exercisable only if the personal data—
  - (a) is processed wholly or partly by automated means, or
  - (b) is processed otherwise than by automated means and forms part of a filing system or is intended to form part of a filing system.
- (3) The power under subsection (1) includes power to inspect, operate and test equipment which is used for the processing of personal data.
- (4) Before exercising the power under subsection (1), the Commissioner must by written notice inform the controller and any processor that the Commissioner intends to do so.
- (5) Subsection (4) does not apply if the Commissioner considers that the case is urgent.
- (6) It is an offence—
  - (a) intentionally to obstruct a person exercising the power under subsection (1), or
  - (b) to fail without reasonable excuse to give a person exercising that power any assistance the person may reasonably require.
- (7) Paragraphs (c) and (d) of section 3(14) do not apply to references in this section to personal data, the processing of personal data, a controller or a processor.

### [<sup>F3</sup>119A Standard clauses for transfers to third countries etc

- (1) The Commissioner may issue a document specifying standard data protection clauses which the Commissioner considers provide appropriate safeguards for the purposes of transfers of personal data to a third country or an international organisation in reliance on Article 46 of the UK GDPR (and see also section 17C).
- (2) The Commissioner may issue a document that amends or withdraws a document issued under subsection (1).
- (3) A document issued under this section—
  - (a) must specify when it comes into force,
  - (b) may make different provision for different purposes, and
  - (c) may include transitional provision or savings.
- (4) Before issuing a document under this section, the Commissioner must consult the Secretary of State and such of the following as the Commissioner considers appropriate—
  - (a) trade associations;
  - (b) data subjects;
  - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (5) After a document is issued under this section—
  - (a) the Commissioner must send a copy to the Secretary of State, and
  - (b) the Secretary of State must lay it before Parliament.

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- (6) If, within the 40-day period, either House of Parliament resolves not to approve the document then, with effect from the end of the day on which the resolution is passed, the document is to be treated as not having been issued under this section (so that the document, and any amendment or withdrawal made by the document, is to be disregarded for the purposes of Article 46(2)(d) of the UK GDPR).
- (7) Nothing in subsection (6)—
- (a) affects any transfer of personal data previously made in reliance on the document, or
  - (b) prevents a further document being laid before Parliament.
- (8) The Commissioner must publish—
- (a) a document issued under this section, and
  - (b) a notice identifying any document which, under subsection (6), is treated as not having been issued under this section.
- (9) The Commissioner must keep under review the clauses specified in a document issued under this section for the time being in force.
- (10) In this section, “the 40-day period” means—
- (a) if the document is laid before both Houses of Parliament on the same day, the period of 40 days beginning with that day, or
  - (b) if the document is laid before the Houses of Parliament on different days, the period of 40 days beginning with the later of those days.
- (11) In calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses of Parliament are adjourned for more than 4 days.
- (12) In this section, “trade association” includes a body representing controllers or processors.]

#### Textual Amendments

- F3** S. 119A 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. 51](#) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

## 120 Further international role

- (1) The Commissioner must, in relation to third countries and international organisations, take appropriate steps to—
- (a) develop international co-operation mechanisms to facilitate the effective enforcement of legislation for the protection of personal data;
  - (b) provide international mutual assistance in the enforcement of legislation for the protection of personal data, subject to appropriate safeguards for the protection of personal data and other fundamental rights and freedoms;
  - (c) engage relevant stakeholders in discussion and activities aimed at furthering international co-operation in the enforcement of legislation for the protection of personal data;

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- (d) promote the exchange and documentation of legislation and practice for the protection of personal data, including legislation and practice relating to jurisdictional conflicts with third countries.
- (2) Subsection (1) applies only in connection with the processing of personal data to which the [F4UK GDPR] does not apply; for the equivalent duty in connection with the processing of personal data to which the [F4UK GDPR] applies, see Article 50 of the [F4UK GDPR] (international co-operation for the protection of personal data).
- [F5(2A) The Commissioner may contribute to the activities of international organisations with data protection functions.]
- (3) The Commissioner must carry out data protection functions which the Secretary of State directs the Commissioner to carry out for the purpose of enabling Her Majesty's Government in the United Kingdom to give effect to an international obligation of the United Kingdom.
- (4) The Commissioner may provide an authority carrying out data protection functions under the law of a British overseas territory with assistance in carrying out those functions.
- (5) The Secretary of State may direct that assistance under subsection (4) is to be provided on terms, including terms as to payment, specified or approved by the Secretary of State.
- (6) In this section—
- “data protection functions” means functions relating to the protection of individuals with respect to the processing of personal data;
- “mutual assistance in the enforcement of legislation for the protection of personal data” includes assistance in the form of notification, complaint referral, investigative assistance and information exchange;
- “third country” means a country or territory [F6outside the United Kingdom].
- (7) Section 3(14)(c) does not apply to references to personal data and the processing of personal data in this section.

#### Textual Amendments

- F4** Words in s. 120(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. 52(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** S. 120(2A) 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. 52(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 120(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. 52(4)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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