



Data Protection Act 2018

2018 CHAPTER 12

PART 7

SUPPLEMENTARY AND FINAL PROVISION

Offences

196 Penalties for offences

- (1) A person who commits an offence under section 119 or 173 or paragraph 15 of Schedule 15 is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (2) A person who commits an offence under section 132, 144, 148, 170, 171 or 184 is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to a fine.
- (3) Subsections (4) and (5) apply where a person is convicted of an offence under section 170 or 184.
- (4) The court by or before which the person is convicted may order a document or other material to be forfeited, destroyed or erased if—
 - (a) it has been used in connection with the processing of personal data, and
 - (b) it appears to the court to be connected with the commission of the offence, subject to subsection (5).
- (5) If a person, other than the offender, who claims to be the owner of the material, or to be otherwise interested in the material, applies to be heard by the court, the court must

Status: This is the original version (as it was originally enacted).

not make an order under subsection (4) without giving the person an opportunity to show why the order should not be made.

197 Prosecution

- (1) In England and Wales, proceedings for an offence under this Act may be instituted only—
 - (a) by the Commissioner, or
 - (b) by or with the consent of the Director of Public Prosecutions.
- (2) In Northern Ireland, proceedings for an offence under this Act may be instituted only—
 - (a) by the Commissioner, or
 - (b) by or with the consent of the Director of Public Prosecutions for Northern Ireland.
- (3) Subject to subsection (4), summary proceedings for an offence under section 173 (alteration etc of personal data to prevent disclosure) may be brought within the period of 6 months beginning with the day on which the prosecutor first knew of evidence that, in the prosecutor's opinion, was sufficient to bring the proceedings.
- (4) Such proceedings may not be brought after the end of the period of 3 years beginning with the day on which the offence was committed.
- (5) A certificate signed by or on behalf of the prosecutor and stating the day on which the 6 month period described in subsection (3) began is conclusive evidence of that fact.
- (6) A certificate purporting to be signed as described in subsection (5) is to be treated as so signed unless the contrary is proved.
- (7) In relation to proceedings in Scotland, section 136(3) of the Criminal Procedure (Scotland) Act 1995 (deemed date of commencement of proceedings) applies for the purposes of this section as it applies for the purposes of that section.

198 Liability of directors etc

- (1) Subsection (2) applies where—
 - (a) an offence under this Act has been committed by a body corporate, and
 - (b) it is proved to have been committed with the consent or connivance of or to be attributable to neglect on the part of—
 - (i) a director, manager, secretary or similar officer of the body corporate, or
 - (ii) a person who was purporting to act in such a capacity.
- (2) The director, manager, secretary, officer or person, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsections (1) and (2) apply in relation to the acts and omissions of a member in connection with the member's management functions in relation to the body as if the member were a director of the body corporate.
- (4) Subsection (5) applies where—
 - (a) an offence under this Act has been committed by a Scottish partnership, and

- (b) the contravention in question is proved to have occurred with the consent or connivance of, or to be attributable to any neglect on the part of, a partner.
- (5) The partner, as well as the partnership, is guilty of the offence and liable to be proceeded against and punished accordingly.

199 Recordable offences

- (1) The National Police Records (Recordable Offences) Regulations 2000 ([S.I. 2000/1139](#)) have effect as if the offences under the following provisions were listed in the Schedule to the Regulations—
- (a) section 119;
 - (b) section 132;
 - (c) section 144;
 - (d) section 148;
 - (e) section 170;
 - (f) section 171;
 - (g) section 173;
 - (h) section 184;
 - (i) paragraph 15 of Schedule 15.
- (2) Regulations under section 27(4) of the Police and Criminal Evidence Act 1984 (recordable offences) may repeal subsection (1).

200 Guidance about PACE codes of practice

- (1) The Commissioner must produce and publish guidance about how the Commissioner proposes to perform the duty under section 67(9) of the Police and Criminal Evidence Act 1984 (duty to have regard to codes of practice under that Act when investigating offences and charging offenders) in connection with offences under this Act.
- (2) The Commissioner—
- (a) may alter or replace the guidance, and
 - (b) must publish any altered or replacement guidance.
- (3) The Commissioner must consult the Secretary of State before publishing guidance under this section (including any altered or replacement guidance).
- (4) The Commissioner must arrange for guidance under this section (including any altered or replacement guidance) to be laid before Parliament.