



Data Protection Act 2018

2018 CHAPTER 12

PART 5

THE INFORMATION COMMISSIONER

Charges

138 Regulations under section 137: supplementary

- (1) Before making regulations under section 137(1) or (6), the Secretary of State must consult such representatives of persons likely to be affected by the regulations as the Secretary of State thinks appropriate (and see also section 182).
- (2) The Commissioner—
 - (a) must keep under review the working of regulations under section 137(1) or (6), and
 - (b) may from time to time submit proposals to the Secretary of State for amendments to be made to the regulations.
- (3) The Secretary of State must review the working of regulations under section 137(1) or (6)—
 - (a) at the end of the period of 5 years beginning with the making of the first set of regulations under section 108 of the Digital Economy Act 2017, and
 - (b) at the end of each subsequent 5 year period.
- (4) Regulations under section 137(1) are subject to the negative resolution procedure if—
 - (a) they only make provision increasing a charge for which provision is made by previous regulations under section 137(1) or section 108(1) of the Digital Economy Act 2017, and
 - (b) they do so to take account of an increase in the retail prices index since the previous regulations were made.
- (5) Subject to subsection (4), regulations under section 137(1) or (6) are subject to the affirmative resolution procedure.

Changes to legislation: Data Protection Act 2018, Section 138 is up to date with all changes known to be in force on or before 21 July 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) View outstanding changes

- (6) In subsection (4), “the retail prices index” means—
- (a) the general index of retail prices (for all items) published by the Statistics Board, or
 - (b) where that index is not published for a month, any substitute index or figures published by the Board.
- (7) Regulations under section 137(1) or (6) may not apply to—
- (a) Her Majesty in her private capacity,
 - (b) Her Majesty in right of the Duchy of Lancaster, or
 - (c) the Duke of Cornwall.

Commencement Information

- II** S. 138 in force at Royal Assent for specified purposes, see s. 212(2)(f)

Changes to legislation:

Data Protection Act 2018, Section 138 is up to date with all changes known to be in force on or before 21 July 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.

[View outstanding changes](#)

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. 13A inserted by [2024 c. 21 s. 31\(4\)](#)
- 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\(3\)](#)