



Data Protection Act 2018

2018 CHAPTER 12

PART 6

ENFORCEMENT

Information notices

143 Information notices: restrictions

- (1) The Commissioner may not give an information notice with respect to the processing of personal data for the special purposes unless—
 - (a) a determination under section 174 with respect to the data or the processing has taken effect, or
 - (b) the Commissioner—
 - (i) has reasonable grounds for suspecting that such a determination could be made, and
 - (ii) the information is required for the purposes of making such a determination.
- (2) An information notice does not require a person to give the Commissioner information to the extent that requiring the person to do so would involve an infringement of the privileges of either House of Parliament.
- (3) An information notice does not require a person to give the Commissioner information in respect of a communication which is made—
 - (a) between a professional legal adviser and the adviser's client, and
 - (b) in connection with the giving of legal advice to the client with respect to obligations, liabilities or rights under the data protection legislation.
- (4) An information notice does not require a person to give the Commissioner information in respect of a communication which is made—
 - (a) between a professional legal adviser and the adviser's client or between such an adviser or client and another person,

Status: This is the original version (as it was originally enacted).

- (b) in connection with or in contemplation of proceedings under or arising out of the data protection legislation, and
 - (c) for the purposes of such proceedings.
- (5) In subsections (3) and (4), references to the client of a professional legal adviser include references to a person acting on behalf of the client.
- (6) An information notice does not require a person to provide the Commissioner with information if doing so would, by revealing evidence of the commission of an offence expose the person to proceedings for that offence.
- (7) The reference to an offence in subsection (6) does not include an offence under—
 - (a) this Act;
 - (b) section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
 - (c) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath);
 - (d) Article 10 of the Perjury (Northern Ireland) Order 1979 ([S.I. 1979/1714 \(N.I. 19\)](#)) (false statutory declarations and other false unsworn statements).
- (8) An oral or written statement provided by a person in response to an information notice may not be used in evidence against that person on a prosecution for an offence under this Act (other than an offence under section 144) unless in the proceedings—
 - (a) in giving evidence the person provides information inconsistent with the statement, and
 - (b) evidence relating to the statement is adduced, or a question relating to it is asked, by that person or on that person's behalf.
- (9) In subsection (6), in relation to an information notice given to a representative of a controller or processor designated under Article 27 of the GDPR, the reference to the person providing the information being exposed to proceedings for an offence includes a reference to the controller or processor being exposed to such proceedings.