F1 Data Protection Act 1998

1998 CHAPTER 29

An Act to make new provision for the regulation of the processing of information relating to individuals, including the obtaining, holding, use or disclosure of such information. [16th July 1998]

Be it enacted by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Textual Amendments

F1 Act repealed (except s. 62, Sch. 15 paras. 13, 15, 16, 18, 19) (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 44 (with ss. 117, 209, 210, Sch. 20 paras. 2-9, 17-25, 27-46, 53, 54, 58); S.I. 2018/625, reg. 2(1)(g)

Modifications etc. (not altering text)

C1 Act modified (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), Sch. 19 para. 432 (with ss. 117, 209, 210, Sch. 20 paras. 58, 59); S.I. 2018/625, reg. 2(1)(g)

C2 Act: power to amend conferred (8.5.2008) by virtue of Criminal Justice and Immigration Act 2008 (c. 4), ss. 77(5), 153

Act: Crown status for the purposes of the Act extended (6.5.1999) by S.I. 1999/677, art. 7(3)

Act applied (1.4.2000) by 1999 c. 28, s. 19(2) (with s. 38); S.I. 2000/1066, art. 2

Act excluded (1.3.2000) by S.I. 2000/416, art. 2, Sch.

Act: functions of the Secretary of State transferred to the Lord Chancellor (26.11.2001) by S.I. 2001/3500, arts. 3, 4, Sch. 1 para. 11

Act applied by S.I. 1993/1813, art. 4(2) (as substituted by S.I. 2001/1544, art. 3(5)(6)) (the amendment coming into force in accordance with art. 1(2) of S.I. 2001/1544)

Act (except ss. 6(4)(a)(b), 28, Sch. 5 para. 12(2) for certain purposes and Sch. 6 paras. 2, 3): functions of the Lord Chancellor transferred to the Secretary of State, and all property, rights and liabilities to which the Lord Chancellor is entitled or subject to in connection with any such function transferred to the Secretary of State for Constitutional Affairs (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), arts. 4, 5, Sch. 1 (with art. 6)
PART I
PRELIMINARY

1 Basic interpretative provisions.

2 Sensitive personal data.

3 The special purposes.

4 The data protection principles.

5 Application of Act.

6 The Commissioner . . .
PART II

RIGHTS OF DATA SUBJECTS AND OTHERS

7 Right of access to personal data.

8 Provisions supplementary to section 7.

9 Application of section 7 where data controller is credit reference agency.

9A Unstructured personal data held by public authorities.

10 Right to prevent processing likely to cause damage or distress.

11 Right to prevent processing for purposes of direct marketing.

12 Rights in relation to automated decision-taking.

12A Rights of data subjects in relation to exempt manual data.

13 Compensation for failure to comply with certain requirements.

14 Rectification, blocking, erasure and destruction.

15 Jurisdiction and procedure.
PART III
NOTIFICATION BY DATA CONTROLLERS

16 Preliminary.

17 Prohibition on processing without registration.

18 Notification by data controllers.

19 Register of notifications.

20 Duty to notify changes.

21 Offences.

22 Preliminary assessment by Commissioner.

23 Power to make provision for appointment of data protection supervisors.

24 Duty of certain data controllers to make certain information available.

25 Functions of Commissioner in relation to making of notification regulations.

26 Fees regulations.
PART IV

EXEMPTIONS

27 Preliminary.

28 National security.

29 Crime and taxation.

30 Health, education and social work.

31 Regulatory activity.

32 Journalism, literature and art.

33 Research, history and statistics.

33A Manual data held by public authorities.

34 Information available to the public by or under enactment.

35 Disclosures required by law or made in connection with legal proceedings etc.

35A Parliamentary privilege.

36 Domestic purposes.
37  Miscellaneous exemptions.

38  Powers to make further exemptions by order.

39  Transitional relief.

PART V
ENFORCEMENT

40  Enforcement notices.

41  Cancellation of enforcement notice.

41A  Assessment notices

41B  Assessment notices: limitations

41C  Code of practice about assessment notices

42  Request for assessment.

43  Information notices.

44  Special information notices.
45  Determination by Commissioner as to the special purposes.

46  Restriction on enforcement in case of processing for the special purposes.

47  Failure to comply with notice.

48  Rights of appeal.

49  Determination of appeals.

50  Powers of entry and inspection.

PART VI
MISCELLANEOUS AND GENERAL

Modifications etc. (not altering text)
C4 Pt. VI applied (with modifications) (3.12.2014) by The Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141), regs. 1(b), 51(1)(b)

F1 Functions of Commissioner

51  General duties of Commissioner.

52  Reports and codes of practice to be laid before Parliament.

52A Data-sharing code
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>52AA</td>
<td>Direct marketing code</td>
</tr>
<tr>
<td>52B</td>
<td>data-sharing and direct marketing codes: procedure</td>
</tr>
<tr>
<td>52C</td>
<td>Alteration or replacement of data-sharing and direct marketing codes</td>
</tr>
<tr>
<td>52D</td>
<td>Publication of data-sharing and direct marketing codes</td>
</tr>
<tr>
<td>52E</td>
<td>Effect of data-sharing and direct marketing codes</td>
</tr>
<tr>
<td>53</td>
<td>Assistance by Commissioner in cases involving processing for the special purposes.</td>
</tr>
<tr>
<td>54</td>
<td>International co-operation.</td>
</tr>
<tr>
<td>54A</td>
<td>Inspection of overseas information systems</td>
</tr>
<tr>
<td></td>
<td>[^{F1}] Unlawful obtaining et cetera etc. of personal data</td>
</tr>
<tr>
<td>55</td>
<td>Unlawful obtaining etc. of personal data.</td>
</tr>
<tr>
<td></td>
<td>[^{F1}] Monetary penalties</td>
</tr>
<tr>
<td>55A</td>
<td>Power of Commissioner to impose monetary penalty</td>
</tr>
<tr>
<td>55B</td>
<td>Monetary penalty notices: procedural rights</td>
</tr>
</tbody>
</table>
55C  Guidance about monetary penalty notices

55D  Monetary penalty notices: enforcement

55E  Notices under sections 55A and 55B: supplemental

F1 Records obtained under data subject’s right of access

56  Prohibition of requirement as to production of certain records.

57  Avoidance of certain contractual terms relating to health records.

F1 Information provided to Commissioner or Tribunal

58  Disclosure of information.

59  Confidentiality of information.

F1 General provisions relating to offences

60  Prosecutions and penalties.

61  Liability of directors etc.

Amendments of Consumer Credit Act 1974


(1) In section 158 of the \[^{M1}\]Consumer Credit Act 1974 (duty of agency to disclose filed information)—

(a) in subsection (1)—
(i) in paragraph (a) for “individual” there is substituted “ partnership or other unincorporated body of persons not consisting entirely of bodies corporate ”, and

(ii) for “him” there is substituted “ it ”,

(b) in subsection (2), for “his” there is substituted “ the consumer’s ”, and

(c) in subsection (3), for “him” there is substituted “ the consumer ”.

(2) In section 159 of that Act (correction of wrong information) for subsection (1) there is substituted—

“(1) Any individual (the “objector”) given—

(a) information under section 7 of the Data Protection Act 1998 by a credit reference agency, or

(b) information under section 158,

who considers that an entry in his file is incorrect, and that if it is not corrected he is likely to be prejudiced, may give notice to the agency requiring it either to remove the entry from the file or amend it.”

(3) In subsections (2) to (6) of that section—

(a) for “consumer”, wherever occurring, there is substituted “ objector ”, and

(b) for “Director”, wherever occurring, there is substituted “ the relevant authority ”.

(4) After subsection (6) of that section there is inserted—

“(7) The Data Protection Commissioner may vary or revoke any order made by him under this section.

(8) In this section “the relevant authority” means—

(a) where the objector is a partnership or other unincorporated body of persons, the Director, and

(b) in any other case, the Data Protection Commissioner.”

(5) In section 160 of that Act (alternative procedure for business consumers)—

(a) in subsection (4)—

(i) for “him” there is substituted “ to the consumer ”, and

(ii) in paragraphs (a) and (b) for “he” there is substituted “ the consumer ” and for “his” there is substituted “ the consumer’s ”, and

(b) after subsection (6) there is inserted—

“(7) In this section “consumer” has the same meaning as in section 158.”
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>63A</td>
<td>Application to Parliament.</td>
</tr>
<tr>
<td>64</td>
<td>Transmission of notices etc. by electronic or other means.</td>
</tr>
<tr>
<td>65</td>
<td>Service of notices by Commissioner.</td>
</tr>
<tr>
<td>66</td>
<td>Exercise of rights in Scotland by children.</td>
</tr>
<tr>
<td>67</td>
<td>Orders, regulations and rules.</td>
</tr>
<tr>
<td>68</td>
<td>Meaning of “accessible record”.</td>
</tr>
<tr>
<td>69</td>
<td>Meaning of “health professional”.</td>
</tr>
<tr>
<td>70</td>
<td>Supplementary definitions.</td>
</tr>
<tr>
<td>71</td>
<td>Index of defined expressions.</td>
</tr>
<tr>
<td>72</td>
<td>Modifications of Act.</td>
</tr>
<tr>
<td>73</td>
<td>Transitional provisions and savings.</td>
</tr>
<tr>
<td>74</td>
<td>Minor and consequential amendments and repeals and revocations.</td>
</tr>
<tr>
<td>75</td>
<td>Short title, commencement and extent.</td>
</tr>
</tbody>
</table>
SCHEDULES

SCHEDULE 1

Section 4(1) and (2).

SCHEDULE 2

Section 4(3).

SCHEDULE 3

Section 4(3).

SCHEDULE 4

Section 4(3).

SCHEDULE 5

Section 6(7).

SCHEDULE 6

Sections 28(12), 48(5).

SCHEDULE 7

Section 37.

SCHEDULE 8

Section 39.
F1 SCHEDULE 9

Section 50.

F1 SCHEDULE 10

Section 53(6).

F1 SCHEDULE 11

Section 68(1)(6).

F1 SCHEDULE 12

Section 68(1)(c).

F1 SCHEDULE 13

Section 72.

F1 SCHEDULE 14

Section 73.

SCHEDULE 15

MINOR AND CONSEQUENTIAL AMENDMENTS

F1 Public Records Act 1958 (c. 51)

1 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

F1 Parliamentary Commissioner Act 1967 (c. 13)

2 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .

3 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . .
In section 5(3) of that Act (cases where right of access may be partially excluded) for the words from the beginning to “record” in the first place where it occurs there is substituted “Access shall not be given under section 3(2) to any part of a health record”.

In Article 6(1) of that Order (interpretation), in the definition of “health professional”, for “the Data Protection (Subject Access Modification) (Health) Order 1987” there is substituted “the Data Protection Act 1998”.

In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals), for paragraph 14 there is substituted—
14. “Data protection
(a) The Data Protection Commissioner appointed under section 6 of the Data Protection Act 1998;
(b) the Data Protection Tribunal constituted under that section, in respect of its jurisdiction under section 48 of that Act.”

F1 Access to Health Records (Northern Ireland) Order 1993 (1993/1250 (N.I. 4))

F17

18. In Article 5(4) of that Order (cases where fee may be required) in sub-paragraph (a), for “the maximum prescribed under section 21 of the Data Protection Act 1984” there is substituted “such maximum as may be prescribed for the purposes of this Article by regulations under section 7 of the Data Protection Act 1998”.

19. In Article 7 of that Order (cases where right of access may be partially excluded) for the words from the beginning to “record” in the first place where it occurs there is substituted “Access shall not be given under Article 5(2) to any part of a health record”.

F1 Schedule 16

Section 74(2).
Changes to legislation:
Data Protection Act 1998 is up to date with all changes known to be in force on or before 19 July 2019. 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:
- Pt. 3 omitted by 2017 c. 30 s. 111(2)
- s. 20(2) words repealed by 2009 c. 25 Sch. 20 para. 4(a) Sch. 23 Pt. 8
- s. 20(2)(a) words inserted by 2009 c. 25 Sch. 20 para. 4(b)
- s. 20(2)(b) words inserted by 2009 c. 25 Sch. 20 para. 4(d)
- s. 31(6) words inserted by 2006 c. 44 s. 14(10)
- s. 33A(1)(c) omitted by 2017 c. 30 s. 111(3)
- s. 69(1)(h) words omitted by 2017 c. 16 Sch. 5 para. 6
- s. 69(1)(h) words substituted by 2017 c. 16 Sch. 5 para. 47(g)
- s. 69(3)(f) words omitted by 2012 c. 7 Sch. 14 para. 74
- s. 71 words omitted by 2017 c. 30 s. 111(4)
- Sch. 1 Pt. 2 para. 5(b) and word omitted by 2017 c. 30 s. 111(5)
- Sch. 5 para. 9(1) words inserted by 2017 c. 30 s. 111(6)
- Sch. 12 para. 4 words repealed by 2001 asp 10 Sch. 10 para. 26
- Sch. 12 para. 5(3) words repealed by 2001 asp 10 Sch. 10 para. 26
- Sch. 14 para. 2 omitted by 2017 c. 30 s. 111(7)

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. 20(2)(aa) inserted by 2009 c. 25 Sch. 20 para. 4(c)
- s. 31(4)(a)(va) inserted by 2016 c. 21 (N.I.) Sch. 3 para. 13
- s. 55(2)(ca) inserted by 2008 c. 4 s. 78