

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation)(Text with EEA relevance)

CHAPTER VIII

Remedies, liability and penalties

Article 77

Right to lodge a complaint with [F1the Commissioner]

1 Without prejudice to any other administrative or judicial remedy, every data subject shall have the right to lodge a complaint with [F2the Commissioner] if the data subject considers that the processing of personal data relating to him or her infringes this Regulation.

2 [F3The Commissioner] shall inform the complainant on the progress and the outcome of the complaint including the possibility of a judicial remedy pursuant to Article 78.

Textual Amendments

- F1** Words in Art. 77 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. 1 para. 56(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 77(1) 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. 1 para. 56(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 77(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. 1 para. 56(4)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Article 78

Right to an effective judicial remedy against [F4the Commissioner]

1 Without prejudice to any other administrative or non-judicial remedy, each natural or legal person shall have the right to an effective judicial remedy against a legally binding decision of [F5the Commissioner] concerning them.

2 Without prejudice to any other administrative or non-judicial remedy, each data subject shall have the right to a an effective judicial remedy where [F6the Commissioner] does not handle a complaint or does not inform the data subject within three months on the progress or outcome of the complaint lodged pursuant to Article 77.

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Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, CHAPTER VIII. (See end of Document for details)

Textual Amendments

- F4** Words in Art. 78 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. 1 para. 57(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 78(1) 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. 1 para. 57(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 78(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. 1 para. 57(4)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Art. 78(3)(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. 1 para. 57(5)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)

Article 79

Right to an effective judicial remedy against a controller or processor

1 Without prejudice to any available administrative or non-judicial remedy, including the right to lodge a complaint with [^{F8}the Commissioner] pursuant to Article 77, each data subject shall have the right to an effective judicial remedy where he or she considers that his or her rights under this Regulation have been infringed as a result of the processing of his or her personal data in non-compliance with this Regulation.

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Textual Amendments

- F8** Words in Art. 79(1) 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. 1 para. 58(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Art. 79(2) 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. 1 para. 58(3)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)

Article 80

Representation of data subjects

1 The data subject shall have the right to mandate [^{F10}a body or other organisation which meets the conditions in section 187(3) and (4) of the 2018 Act] to lodge the complaint on his or her behalf, to exercise the rights referred to in Articles 77, 78 and 79 on his or her behalf, and to exercise the right to receive compensation referred to in Article 82 on his or her behalf ^{F11}...

2 [^{F12}The Secretary of State] may provide that any body, organisation or association referred to in paragraph 1 of this Article, independently of a data subject's mandate, has the right to lodge ^{F13}... a complaint with [^{F14}the Commissioner] and to exercise the rights referred to in Articles 78 and 79 if it considers that the rights of a data subject under this Regulation have been infringed as a result of the processing.

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[^{F15}3. The Secretary of State may exercise the power under paragraph 2 of this Article only by making regulations under section 190 of the 2018 Act.]

Textual Amendments

- F10** Words in Art. 80(1) 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. 1 para. 59(2)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F11** Words in Art. 80(1) 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. 1 para. 59(2)(b)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F12** Words in Art. 80(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. 1 para. 59(3)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F13** Words in Art. 80(2) 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. 1 para. 59(3)(b)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F14** Words in Art. 80(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. 1 para. 59(3)(c)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F15** Art. 80(3) 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. 1 para. 59(4)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

^{F16} Article 81

Suspension of proceedings

Textual Amendments

- F16** Art. 81 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. 1 para. 60** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)

Article 82

Right to compensation and liability

1 Any person who has suffered material or non-material damage as a result of an infringement of this Regulation shall have the right to receive compensation from the controller or processor for the damage suffered.

2 Any controller involved in processing shall be liable for the damage caused by processing which infringes this Regulation. A processor shall be liable for the damage caused by processing only where it has not complied with obligations of this Regulation specifically directed to processors or where it has acted outside or contrary to lawful instructions of the controller.

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3 A controller or processor shall be exempt from liability under paragraph 2 if it proves that it is not in any way responsible for the event giving rise to the damage.

4 Where more than one controller or processor, or both a controller and a processor, are involved in the same processing and where they are, under paragraphs 2 and 3, responsible for any damage caused by processing, each controller or processor shall be held liable for the entire damage in order to ensure effective compensation of the data subject.

5 Where a controller or processor has, in accordance with paragraph 4, paid full compensation for the damage suffered, that controller or processor shall be entitled to claim back from the other controllers or processors involved in the same processing that part of the compensation corresponding to their part of responsibility for the damage, in accordance with the conditions set out in paragraph 2.

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Textual Amendments

F17 Art. 82(6) 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. 1 para. 61** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)

Article 83

General conditions for imposing administrative fines

1 [F18The Commissioner] shall ensure that the imposition of administrative fines pursuant to this Article in respect of infringements of this Regulation referred to in paragraphs 4, 5 and 6 shall in each individual case be effective, proportionate and dissuasive.

2 Administrative fines shall, depending on the circumstances of each individual case, be imposed in addition to, or instead of, measures referred to in points (a) to (h) and (j) of Article 58(2). When deciding whether to impose an administrative fine and deciding on the amount of the administrative fine in each individual case due regard shall be given to the following:

- a the nature, gravity and duration of the infringement taking into account the nature scope or purpose of the processing concerned as well as the number of data subjects affected and the level of damage suffered by them;
- b the intentional or negligent character of the infringement;
- c any action taken by the controller or processor to mitigate the damage suffered by data subjects;
- d the degree of responsibility of the controller or processor taking into account technical and organisational measures implemented by them pursuant to Articles 25 and 32;
- e any relevant previous infringements by the controller or processor;
- f the degree of cooperation with [F19the Commissioner], in order to remedy the infringement and mitigate the possible adverse effects of the infringement;
- g the categories of personal data affected by the infringement;
- h the manner in which the infringement became known to [F20the Commissioner], in particular whether, and if so to what extent, the controller or processor notified the infringement;

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- i where measures referred to in Article 58(2) have previously been ordered against the controller or processor concerned with regard to the same subject-matter, compliance with those measures;
- j adherence to approved codes of conduct pursuant to Article 40 or approved certification mechanisms pursuant to Article 42; and
- k any other aggravating or mitigating factor applicable to the circumstances of the case, such as financial benefits gained, or losses avoided, directly or indirectly, from the infringement.

3 If a controller or processor intentionally or negligently, for the same or linked processing operations, infringes several provisions of this Regulation, the total amount of the administrative fine shall not exceed the amount specified for the gravest infringement.

4 Infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to [F21£8,700,000], or in the case of an undertaking, up to 2 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

- a the obligations of the controller and the processor pursuant to Articles 8, 11, 25 to 39 and 42 and 43;
- b the obligations of the certification body pursuant to Articles 42 and 43;
- c the obligations of the monitoring body pursuant to Article 41(4).

5 Infringements of the following provisions shall, in accordance with paragraph 2, be subject to administrative fines up to [F22£17,500,000], or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher:

- a the basic principles for processing, including conditions for consent, pursuant to Articles 5, 6, 7 and 9;
- b the data subjects' rights pursuant to Articles 12 to 22;
- c the transfers of personal data to a recipient in a third country or an international organisation pursuant to Articles 44 to 49;
- [F23]d any obligations under Part 5 or 6 of Schedule 2 to the 2018 Act or regulations made under section 16(1)(c) of the 2018 Act;
- e non-compliance with an order or a temporary or definitive limitation on processing or the suspension of data flows by [F24the Commissioner] pursuant to Article 58(2) or failure to provide access in violation of Article 58(1).

6 Non-compliance with an order by [F25the Commissioner] as referred to in Article 58(2) shall, in accordance with paragraph 2 of this Article, be subject to administrative fines up to [F26£17,500,000], or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

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[F28]10. In the 2018 Act, section 115(9) makes provision about the exercise of the Commissioner's functions under this Article.]

Textual Amendments

- F18** Words in Art. 83(1) 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. 1 para. 62(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, CHAPTER VIII. (See end of Document for details)

- F19** Words in Art. 83(2)(f) 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. 1 para. 62(3)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F20** Words in Art. 83(2)(h) 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. 1 para. 62(3)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Sum in Art. 83(4) 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. 1 para. 62(4)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F22** Sum in Art. 83(5) 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. 1 para. 62(5)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F23** Art. 83(5)(d) 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. 1 para. 62(5)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F24** Words in Art. 83(5)(e) 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. 1 para. 62(5)(c)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F25** Words in Art. 83(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. 1 para. 62(6)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F26** Sum in Art. 83(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. 1 para. 62(6)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F27** Art. 83(7)(8)(9) 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. 1 para. 62(7)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F28** Art. 83(10) 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. 1 para. 62(8)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Article 84

Penalties

[^{F29}Part 6 of the 2018 Act makes further provision about penalties applicable to infringements of this Regulation.]

Textual Amendments

- F29** Words in Art. 84 substituted for Art. 84(1)(2) (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. 1 para. 63** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, CHAPTER VIII.