Data Protection Act 2018

2018 CHAPTER 12

PART 6

ENFORCEMENT

Remedies in the court

167 Compliance orders

(1) This section applies if, on an application by a data subject, a court is satisfied that there has been an infringement of the data subject's rights under the data protection legislation in contravention of that legislation.

(2) A court may make an order for the purposes of securing compliance with the data protection legislation which requires the controller in respect of the processing, or a processor acting on behalf of that controller—

(a) to take steps specified in the order, or

(b) to refrain from taking steps specified in the order.

(3) The order may, in relation to each step, specify the time at which, or the period within which, it must be taken.

(4) In subsection (1)—

(a) the reference to an application by a data subject includes an application made in exercise of the right under Article 79(1) of the **[**[F1]UK GDPR**]** (right to an effective remedy against a controller or processor);

(b) the reference to the data protection legislation does not include Part 4 of this Act or regulations made under that Part.

(5) In relation to a joint controller in respect of the processing of personal data to which Part 3 applies whose responsibilities are determined in an arrangement under section 58, a court may only make an order under this section if the controller is responsible for compliance with the provision of the data protection legislation that is contravened.

Changes to legislation: *Data Protection Act 2018, Cross Heading: Remedies in the court is up to date with all changes known to be in force on or before 03 October 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*

Textual Amendments

F1 Words in s. 167(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. 2 para. 68** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

168 Compensation for contravention of the [F2UK GDPR]

(1) In Article 82 of the **[**F3UK GDPR**]** (right to compensation for material or non-material damage), "non-material damage" includes distress.

(2) Subsection (3) applies where—

(a) in accordance with rules of court, proceedings under Article 82 of the **[**F4UK GDPR**]** are brought by a representative body on behalf of a person, and

(b) a court orders the payment of compensation.

(3) The court may make an order providing for the compensation to be paid on behalf of the person to—

(a) the representative body, or

(b) such other person as the court thinks fit.

Textual Amendments

F2 Words in s. 168 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. 2 para. 69(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

F3 Words in s. 168(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. 2 para. 69(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

F4 Words in s. 168(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. 2 para. 69(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

169 Compensation for contravention of other data protection legislation

(1) A person who suffers damage by reason of a contravention of a requirement of the data protection legislation, other than the **[**F5UK GDPR**]**, is entitled to compensation for that damage from the controller or the processor, subject to subsections (2) and (3).

(2) Under subsection (1)—

(a) a controller involved in processing of personal data is liable for any damage caused by the processing, and

(b) a processor involved in processing of personal data is liable for damage caused by the processing only if the processor—

(i) has not complied with an obligation under the data protection legislation specifically directed at processors, or

(ii) has acted outside, or contrary to, the controller's lawful instructions.

Changes to legislation: *Data Protection Act 2018, Cross Heading: Remedies in the court is up to date with all changes known to be in force on or before 03 October 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*

(3) A controller or processor is not liable as described in subsection (2) if the controller or processor proves that the controller or processor is not in any way responsible for the event giving rise to the damage.

(4) A joint controller in respect of the processing of personal data to which Part 3 or 4 applies whose responsibilities are determined in an arrangement under section 58 or 104 is only liable as described in subsection (2) if the controller is responsible for compliance with the provision of the data protection legislation that is contravened.

(5) In this section, "damage" includes financial loss and damage not involving financial loss, such as distress.

Textual Amendments

F5 Words in s. 169(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. 2 para. 70** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:
Data Protection Act 2018, Cross Heading: Remedies in the court is up to date with all changes known to be in force on or before 03 October 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.
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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)