



# Data Protection Act 2018

## 2018 CHAPTER 12

### PART 7

#### SUPPLEMENTARY AND FINAL PROVISION

##### *Representation of data subjects*

#### **189 Duty to review provision for representation of data subjects**

- (1) Before the end of the review period, the Secretary of State must—
  - (a) review the matters listed in subsection (2) in relation to England and Wales and Northern Ireland,
  - (b) prepare a report of the review, and
  - (c) lay a copy of the report before Parliament.
- (2) Those matters are—
  - (a) the operation of Article 80(1) of the [F<sup>1</sup>UK GDPR],
  - (b) the operation of section 187,
  - (c) the merits of exercising the power under Article 80(2) of the [F<sup>1</sup>UK GDPR] (power to enable a body or other organisation which meets the conditions in Article 80(1) of the [F<sup>1</sup>UK GDPR] to exercise some or all of a data subject's rights under Articles 77, 78 and 79 of the [F<sup>1</sup>UK GDPR] without being authorised to do so by the data subject),
  - (d) the merits of making equivalent provision in relation to data subjects' rights under Article 82 of the [F<sup>1</sup>UK GDPR] (right to compensation), and
  - (e) the merits of making provision for a children's rights organisation to exercise some or all of a data subject's rights under Articles 77, 78, 79 and 82 of the [F<sup>1</sup>UK GDPR] on behalf of a data subject who is a child, with or without being authorised to do so by the data subject.
- (3) “The review period” is the period of 30 months beginning when section 187 comes into force.

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*Changes to legislation: Data Protection Act 2018, Section 189 is up to date with all changes known to be in force on or before 19 April 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*

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- (4) In carrying out the review, the Secretary of State must—
- (a) consider the particular needs of children separately from the needs of adults,
  - (b) have regard to the fact that children have different needs at different stages of development,
  - (c) carry out an analysis of the particular challenges that children face in authorising, and deciding whether to authorise, other persons to act on their behalf under Article 80(1) of the [F2UK GDPR] or section 187,
  - (d) consider the support and advice available to children in connection with the exercise of their rights under Articles 77, 78, 79 and 82 of the [F3UK GDPR] by another person on their behalf and the merits of making available other support or advice, and
  - (e) have regard to the United Kingdom's obligations under the United Nations Convention on the Rights of the Child.
- (5) Before preparing the report under subsection (1), the Secretary of State must consult the Commissioner and such other persons as the Secretary of State considers appropriate, including—
- (a) persons active in the field of protection of data subjects' rights and freedoms with regard to the protection of their personal data,
  - (b) children and parents,
  - (c) children's rights organisations and other persons who appear to the Secretary of State to represent the interests of children,
  - (d) child development experts, and
  - (e) trade associations.
- (6) In this section—
- “children's rights organisation” means a body or other organisation which—
- (a) is active in representing the interests of children, and
  - (b) has objectives which are in the public interest;
- “trade association” includes a body representing controllers or processors;
- “the United Nations Convention on the Rights of the Child” means the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989 (including any Protocols to that Convention which are in force in relation to the United Kingdom), subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.

#### Textual Amendments

- F1** Words in s. 189(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. 83(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 189(4)(c) 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. 83(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 189(4)(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. 2 para. 83(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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**Commencement Information**

**II** S. 189 in force at 23.7.2018 by [S.I. 2018/625](#), **reg. 3(f)**

**Changes to legislation:**

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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. 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\(3\)](#)