



Data Protection Act 2018

2018 CHAPTER 12

PART 3

LAW ENFORCEMENT PROCESSING

CHAPTER 6

SUPPLEMENTARY

79 National security: certificate

- (1) A Minister of the Crown may issue a certificate certifying, for the purposes of section 44(4), 45(4), 48(3) or 68(7), that a restriction is a necessary and proportionate measure to protect national security.
- (2) The certificate may—
 - (a) relate to a specific restriction (described in the certificate) which a controller has imposed or is proposing to impose under section 44(4), 45(4), 48(3) or 68(7), or
 - (b) identify any restriction to which it relates by means of a general description.
- (3) Subject to subsection (6), a certificate issued under subsection (1) is conclusive evidence that the specific restriction or (as the case may be) any restriction falling within the general description is, or at any time was, a necessary and proportionate measure to protect national security.
- (4) A certificate issued under subsection (1) may be expressed to have prospective effect.
- (5) Any person directly affected by the issuing of a certificate under subsection (1) may appeal to the Tribunal against the certificate.
- (6) If, on an appeal under subsection (5), the Tribunal finds that, applying the principles applied by a court on an application for judicial review, the Minister did not have reasonable grounds for issuing the certificate, the Tribunal may —

Changes to legislation: Data Protection Act 2018, Section 79 is up to date with all changes known to be in force on or before 05 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

- (a) allow the appeal, and
 - (b) quash the certificate.
- (7) Where in any proceedings under or by virtue of this Act, it is claimed by a controller that a restriction falls within a general description in a certificate issued under subsection (1), any other party to the proceedings may appeal to the Tribunal on the ground that the restriction does not fall within that description.
- (8) But, subject to any determination under subsection (9), the restriction is to be conclusively presumed to fall within the general description.
- (9) On an appeal under subsection (7), the Tribunal may determine that the certificate does not so apply.
- (10) A document purporting to be a certificate under subsection (1) is to be—
 - (a) received in evidence, and
 - (b) deemed to be such a certificate unless the contrary is proved.
- (11) A document which purports to be certified by or on behalf of a Minister of the Crown as a true copy of a certificate issued by that Minister under subsection (1) is—
 - (a) in any legal proceedings, evidence of that certificate, and
 - (b) in any legal proceedings in Scotland, sufficient evidence of that certificate.
- (12) The power conferred by subsection (1) on a Minister of the Crown is exercisable only by—
 - (a) a Minister who is a member of the Cabinet, or
 - (b) the Attorney General or the Advocate General for Scotland.
- (13) No power conferred by any provision of Part 6 may be exercised in relation to the imposition of—
 - (a) a specific restriction in a certificate under subsection (1), or
 - (b) a restriction falling within a general description in such a certificate.

Changes to legislation:

Data Protection Act 2018, Section 79 is up to date with all changes known to be in force on or before 05 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.

[View outstanding changes](#)

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):

- Sch. 3 para. 8(1)(y) added by [2022 c. 18 \(N.I.\) Sch. 3 para. 78\(3\)](#)