



Data Protection Act 1998

1998 CHAPTER 29

PART I

PRELIMINARY

5 Application of Act.

- (1) Except as otherwise provided by or under section 54, this Act applies to a data controller in respect of any data only if—
 - (a) the data controller is established in the United Kingdom and the data are processed in the context of that establishment, or
 - (b) the data controller is established neither in the United Kingdom nor in any other EEA State but uses equipment in the United Kingdom for processing the data otherwise than for the purposes of transit through the United Kingdom.
- (2) A data controller falling within subsection (1)(b) must nominate for the purposes of this Act a representative established in the United Kingdom.
- (3) For the purposes of subsections (1) and (2), each of the following is to be treated as established in the United Kingdom—
 - (a) an individual who is ordinarily resident in the United Kingdom,
 - (b) a body incorporated under the law of, or of any part of, the United Kingdom,
 - (c) a partnership or other unincorporated association formed under the law of any part of the United Kingdom, and
 - (d) any person who does not fall within paragraph (a), (b) or (c) but maintains in the United Kingdom—
 - (i) an office, branch or agency through which he carries on any activity, or
 - (ii) a regular practice;and the reference to establishment in any other EEA State has a corresponding meaning.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to Data Protection Act 1998. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)

Annotations:**Modifications etc. (not altering text)**

- C1 [S. 5](#) modified (coming into force in accordance with art. 1(2) of [S.I. 2001/1544](#)) by [S.I. 1993/1813](#), [art. 4\(2\)](#) (as substituted (coming into force in accordance with art. 1(2) of [S.I. 2001/1544](#)) by [S.I. 2001/1544](#), [art. 3\(5\)\(6\)](#))

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Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:

- Blanket amendment text amended by [S.I. 2011/1043 art. 3 6](#)

Commencement Orders yet to be applied to the Data Protection Act 1998:

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2011/601 art. 2](#) commences (1998 c. 29)