



Data Protection Act 2018

2018 CHAPTER 12

PART 2

GENERAL PROCESSING

CHAPTER 2

THE GDPR

Special categories of personal data

10 Special categories of personal data and criminal convictions etc data

- (1) Subsections (2) and (3) make provision about the processing of personal data described in Article 9(1) of the GDPR (prohibition on processing of special categories of personal data) in reliance on an exception in one of the following points of Article 9(2)—
 - (a) point (b) (employment, social security and social protection);
 - (b) point (g) (substantial public interest);
 - (c) point (h) (health and social care);
 - (d) point (i) (public health);
 - (e) point (j) (archiving, research and statistics).
- (2) The processing meets the requirement in point (b), (h), (i) or (j) of Article 9(2) of the GDPR for authorisation by, or a basis in, the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 1 of Schedule 1.
- (3) The processing meets the requirement in point (g) of Article 9(2) of the GDPR for a basis in the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 2 of Schedule 1.

Status: This is the original version (as it was originally enacted).

- (4) Subsection (5) makes provision about the processing of personal data relating to criminal convictions and offences or related security measures that is not carried out under the control of official authority.
- (5) The processing meets the requirement in Article 10 of the GDPR for authorisation by the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 1, 2 or 3 of Schedule 1.
- (6) The Secretary of State may by regulations—
 - (a) amend Schedule 1—
 - (i) by adding or varying conditions or safeguards, and
 - (ii) by omitting conditions or safeguards added by regulations under this section, and
 - (b) consequentially amend this section.
- (7) Regulations under this section are subject to the affirmative resolution procedure.

11 Special categories of personal data etc: supplementary

- (1) For the purposes of Article 9(2)(h) of the GDPR (processing for health or social care purposes etc), the circumstances in which the processing of personal data is carried out subject to the conditions and safeguards referred to in Article 9(3) of the GDPR (obligation of secrecy) include circumstances in which it is carried out—
 - (a) by or under the responsibility of a health professional or a social work professional, or
 - (b) by another person who in the circumstances owes a duty of confidentiality under an enactment or rule of law.
- (2) In Article 10 of the GDPR and section 10, references to personal data relating to criminal convictions and offences or related security measures include personal data relating to—
 - (a) the alleged commission of offences by the data subject, or
 - (b) proceedings for an offence committed or alleged to have been committed by the data subject or the disposal of such proceedings, including sentencing.