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**Changes to legislation:** Data Protection Act 2018, Paragraph 312 is up to date with all changes known to be in force on or before 24 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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## SCHEDULES

### SCHEDULE 19

#### MINOR AND CONSEQUENTIAL AMENDMENTS

#### PART 2

##### AMENDMENTS OF OTHER LEGISLATION

###### *Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520)*

- 312 (1) Regulation 11 (personal data) is amended as follows.
- (2) For paragraph (2) substitute—
- “(2) To the extent that environmental information requested includes personal data of which the applicant is not the data subject, a Scottish public authority must not make the personal data available if—
- (a) the first condition set out in paragraph (3A) is satisfied, or
  - (b) the second or third condition set out in paragraph (3B) or (4A) is satisfied and, in all the circumstances of the case, the public interest in making the information available is outweighed by that in not doing so.”
- (3) For paragraph (3) substitute—
- “(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations—
- (a) would contravene any of the data protection principles, or
  - (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.
- (3B) The second condition is that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene Article 21 of the GDPR (general processing: right to object to processing).”
- (4) For paragraph (4) substitute—
- “(4A) The third condition is that any of the following applies to the information—
- (a) it is exempt from the obligation under Article 15(1) of the GDPR (general processing: right of access by the data subject) to provide access to, and information about, personal data by virtue of provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or

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- (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”

(5) Omit paragraph (5).

(6) After paragraph (6) insert—

“(7) In determining, for the purposes of this regulation, whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

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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\(3\)](#)