

Status: This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Data Protection Act 2018, Cross Heading: Pupils' Educational Records (Scotland) Regulations 2003 (S.S.I. 2003/581). (See end of Document for details)

SCHEDULES

SCHEDULE 19

MINOR AND CONSEQUENTIAL AMENDMENTS

PROSPECTIVE

PART 2

AMENDMENTS OF OTHER LEGISLATION

Pupils' Educational Records (Scotland) Regulations 2003 (S.S.I. 2003/581)

- 297 The Pupils' Educational Records (Scotland) Regulations 2003 are amended as follows.
- 298 (1) Regulation 2 (interpretation) is amended as follows.
- (2) Omit the definition of “the 1998 Act”.
- (3) At the appropriate place insert—
- ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 299 (1) Regulation 6 (circumstances where information should not be disclosed) is amended as follows.
- (2) After “any information” insert “ to the extent that any of the following conditions are satisfied ”.
- (3) For paragraphs (a) to (c) substitute—
- “(aa) the pupil to whom the information relates would have no right of access to the information under the GDPR;
- (ab) the information is personal data described in Article 9(1) or 10 of the GDPR (special categories of personal data and personal data relating to criminal convictions and offences);”.
- (4) In paragraph (d), for “to the extent that its disclosure” substitute “ the disclosure of the information ”.
- (5) In paragraph (e), for “that” substitute “ the information ”.
- 300 In regulation 9 (fees), for paragraph (1) substitute—

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“(1A) In complying with a request made under regulation 5(2), the responsible body may only charge a fee where Article 12(5) or Article 15(3) of the GDPR would permit the charging of a fee if the request had been made by the pupil to whom the information relates under Article 15 of the GDPR.

(1B) Where paragraph (1A) permits the charging of a fee, the responsible body may not charge a fee that—

- (a) exceeds the cost of supply, or
- (b) exceeds any limit in regulations made under section 12 of the Data Protection Act 2018 that would apply if the request had been made by the pupil to whom the information relates under Article 15 of the GDPR.”

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