
Changes to legislation: Data Protection Act 2018, PART 3 is up to date with all changes known to be in force on or before 15 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

SCHEDULES

SCHEDULE 2

EXEMPTIONS ETC FROM THE [F1UK GDPR]

Textual Amendments

- F1** Words in Sch. 2 heading substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(2)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

PART 3

RESTRICTION [F1FOR THE] PROTECTION OF RIGHTS OF OTHERS

Textual Amendments

- F1** Words in Sch. 2 Pt. 3 heading substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(13)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Protection of the rights of others: general

- 16 (1) Article 15(1) to (3) of the [F2UK GDPR] (confirmation of processing, access to data and safeguards for third country transfers), and Article 5 of the [F2UK GDPR] so far as its provisions correspond to the rights and obligations provided for in Article 15(1) to (3), do not oblige a controller to disclose information to the data subject to the extent that doing so would involve disclosing information relating to another individual who can be identified from the information.
- (2) Sub-paragraph (1) does not remove the controller's obligation where—
- the other individual has consented to the disclosure of the information to the data subject, or
 - it is reasonable to disclose the information to the data subject without the consent of the other individual.
- (3) In determining whether it is reasonable to disclose the information without consent, the controller must have regard to all the relevant circumstances, including—
- the type of information that would be disclosed,
 - any duty of confidentiality owed to the other individual,
 - any steps taken by the controller with a view to seeking the consent of the other individual,
 - whether the other individual is capable of giving consent, and

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- (e) any express refusal of consent by the other individual.
- (4) For the purposes of this paragraph—
- (a) “information relating to another individual” includes information identifying the other individual as the source of information;
 - (b) an individual can be identified from information to be provided to a data subject by a controller if the individual can be identified from—
 - (i) that information, or
 - (ii) that information and any other information that the controller reasonably believes the data subject is likely to possess or obtain.

Textual Amendments

F2 Words in Sch. 2 para. 16(1) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 2 para. 92(14) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Assumption of reasonableness for health workers, social workers and education workers

- 17 (1) For the purposes of paragraph 16(2)(b), it is to be considered reasonable for a controller to disclose information to a data subject without the consent of the other individual where—
- (a) the health data test is met,
 - (b) the social work data test is met, or
 - (c) the education data test is met.
- (2) The health data test is met if—
- (a) the information in question is contained in a health record, and
 - (b) the other individual is a health professional who has compiled or contributed to the health record or who, in his or her capacity as a health professional, has been involved in the diagnosis, care or treatment of the data subject.
- (3) The social work data test is met if—
- (a) the other individual is—
 - (i) a children's court officer,
 - (ii) a person who is or has been employed by a person or body referred to in paragraph 8 of Schedule 3 in connection with functions exercised in relation to the information, or
 - (iii) a person who has provided for reward a service that is similar to a service provided in the exercise of any relevant social services functions, and
 - (b) the information relates to the other individual in an official capacity or the other individual supplied the information—
 - (i) in an official capacity, or
 - (ii) in a case within paragraph (a)(iii), in connection with providing the service mentioned in paragraph (a)(iii).
- (4) The education data test is met if—
- (a) the other individual is an education-related worker, or

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- (b) the other individual is employed by an education authority (within the meaning of the Education (Scotland) Act 1980) in pursuance of its functions relating to education and—
 - (i) the information relates to the other individual in his or her capacity as such an employee, or
 - (ii) the other individual supplied the information in his or her capacity as such an employee.
- (5) In this paragraph—
- “children's court officer” means a person referred to in paragraph 8(1)(q), (r), (s), (t) or (u) of Schedule 3;
 - “education-related worker” means a person referred to in paragraph 14(4)(a) or (b) or 16(4)(a), (b) or (c) of Schedule 3 (educational records);
 - “relevant social services functions” means functions specified in paragraph 8(1)(a), (b), (c) or (d) of Schedule 3.

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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):

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