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## SCHEDULES

PROSPECTIVE

### SCHEDULE 20

Section 213

#### TRANSITIONAL PROVISION ETC

#### PART 1

##### GENERAL

##### *Interpretation*

- 1 (1) In this Schedule—
- “the 1984 Act” means the Data Protection Act 1984;
  - “the 1998 Act” means the Data Protection Act 1998;
  - “the 2014 Regulations” means the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141);
  - “data controller” has the same meaning as in the 1998 Act (see section 1 of that Act);
  - “the old data protection principles” means the principles set out in—
    - (a) Part 1 of Schedule 1 to the 1998 Act, and
    - (b) regulation 30 of the 2014 Regulations.
- (2) A provision of the 1998 Act that has effect by virtue of this Schedule is not, by virtue of that, part of the data protection legislation (as defined in section 3).

#### PART 2

##### RIGHTS OF DATA SUBJECTS

##### *Right of access to personal data under the 1998 Act*

- 2 (1) The repeal of sections 7 to 9A of the 1998 Act (right of access to personal data) does not affect the application of those sections after the relevant time in a case in which a data controller received a request under section 7 of that Act (right of access to personal data) before the relevant time.
- (2) The repeal of sections 7 and 8 of the 1998 Act and the revocation of regulation 44 of the 2014 Regulations (which applies those sections with modifications) do not affect the application of those sections and that regulation after the relevant time in a case in which a UK competent authority received a request under section 7 of the 1998 Act (as applied by that regulation) before the relevant time.

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(3) The revocation of the relevant regulations, or their amendment by Schedule 19 to this Act, and the repeals and revocation mentioned in sub-paragraphs (1) and (2), do not affect the application of the relevant regulations after the relevant time in a case described in those sub-paragraphs.

(4) In this paragraph—

“the relevant regulations” means—

- (a) the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 (S.I. 2000/191);
- (b) regulation 4 of, and Schedule 1 to, the Consumer Credit (Credit Reference Agency) Regulations 2000 (S.I. 2000/290);
- (c) regulation 3 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (S.I. 2004/3244);

“the relevant time” means the time when the repeal of section 7 of the 1998 Act comes into force;

“UK competent authority” has the same meaning as in Part 4 of the 2014 Regulations (see regulation 27 of those Regulations).

*Right to prevent processing likely to cause damage or distress under the 1998 Act*

3 (1) The repeal of section 10 of the 1998 Act (right to prevent processing likely to cause damage or distress) does not affect the application of that section after the relevant time in a case in which an individual gave notice in writing to a data controller under that section before the relevant time.

(2) In this paragraph, “the relevant time” means the time when the repeal of section 10 of the 1998 Act comes into force.

*Right to prevent processing for purposes of direct marketing under the 1998 Act*

4 (1) The repeal of section 11 of the 1998 Act (right to prevent processing for purposes of direct marketing) does not affect the application of that section after the relevant time in a case in which an individual gave notice in writing to a data controller under that section before the relevant time.

(2) In this paragraph, “the relevant time” means the time when the repeal of section 11 of the 1998 Act comes into force.

*Automated processing under the 1998 Act*

5 (1) The repeal of section 12 of the 1998 Act (rights in relation to automated decision-taking) does not affect the application of that section after the relevant time in relation to a decision taken by a person before that time if—

- (a) in taking the decision the person failed to comply with section 12(1) of the 1998 Act, or
- (b) at the relevant time—
  - (i) the person had not taken all of the steps required under section 12(2) or (3) of the 1998 Act, or
  - (ii) the period specified in section 12(2)(b) of the 1998 Act (for an individual to require a person to reconsider a decision) had not expired.

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- (2) In this paragraph, “the relevant time” means the time when the repeal of section 12 of the 1998 Act comes into force.

*Compensation for contravention of the 1998 Act or Part 4 of the 2014 Regulations*

- 6 (1) The repeal of section 13 of the 1998 Act (compensation for failure to comply with certain requirements) does not affect the application of that section after the relevant time in relation to damage or distress suffered at any time by reason of an act or omission before the relevant time.
- (2) The revocation of regulation 45 of the 2014 Regulations (right to compensation) does not affect the application of that regulation after the relevant time in relation to damage or distress suffered at any time by reason of an act or omission before the relevant time.
- (3) “The relevant time” means—
- (a) in sub-paragraph (1), the time when the repeal of section 13 of the 1998 Act comes into force;
  - (b) in sub-paragraph (2), the time when the revocation of regulation 45 of the 2014 Regulation comes into force.

*Rectification, blocking, erasure and destruction under the 1998 Act*

- 7 (1) The repeal of section 14(1) to (3) and (6) of the 1998 Act (rectification, blocking, erasure and destruction of inaccurate personal data) does not affect the application of those provisions after the relevant time in a case in which an application was made under subsection (1) of that section before the relevant time.
- (2) The repeal of section 14(4) to (6) of the 1998 Act (rectification, blocking, erasure and destruction: risk of further contravention in circumstances entitling data subject to compensation under section 13 of the 1998 Act) does not affect the application of those provisions after the relevant time in a case in which an application was made under subsection (4) of that section before the relevant time.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 14 of the 1998 Act comes into force.

*Jurisdiction and procedure under the 1998 Act*

- 8 The repeal of section 15 of the 1998 Act (jurisdiction and procedure) does not affect the application of that section in connection with sections 7 to 14 of the 1998 Act as they have effect by virtue of this Schedule.

*Exemptions under the 1998 Act*

- 9 (1) The repeal of Part 4 of the 1998 Act (exemptions) does not affect the application of that Part after the relevant time in connection with a provision of Part 2 of the 1998 Act as it has effect after that time by virtue of paragraphs 2 to 7 of this Schedule.
- (2) The revocation of the relevant Orders, and the repeal mentioned in sub-paragraph (1), do not affect the application of the relevant Orders after the relevant time in connection with a provision of Part 2 of the 1998 Act as it has effect as described in sub-paragraph (1).

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(3) In this paragraph—

“the relevant Orders” means—

- (a) the Data Protection (Corporate Finance Exemption) Order 2000 (S.I. 2000/184);
- (b) the Data Protection (Subject Access Modification) (Health) Order 2000 (S.I. 2000/413);
- (c) the Data Protection (Subject Access Modification) (Education) Order 2000 (S.I. 2000/414);
- (d) the Data Protection (Subject Access Modification) (Social Work) Order 2000 (S.I. 2000/415);
- (e) the Data Protection (Crown Appointments) Order 2000 (S.I. 2000/416);
- (f) Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 (S.I. 2000/419);
- (g) Data Protection (Designated Codes of Practice) (No. 2) Order 2000 (S.I. 2000/1864);

“the relevant time” means the time when the repeal of the provision of Part 2 of the 1998 Act in question comes into force.

(4) As regards certificates issued under section 28(2) of the 1998 Act, see Part 5 of this Schedule.

*Prohibition by this Act of requirement to produce relevant records*

- 10 (1) In Schedule 18 to this Act, references to a record obtained in the exercise of a data subject access right include a record obtained at any time in the exercise of a right under section 7 of the 1998 Act.
- (2) In section 184 of this Act, references to a “relevant record” include a record which does not fall within the definition in Schedule 18 to this Act (read with subparagraph (1)) but which, immediately before the relevant time, was a “relevant record” for the purposes of section 56 of the 1998 Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 56 of the 1998 Act comes into force.

*Avoidance under this Act of certain contractual terms relating to health records*

- 11 In section 185 of this Act, references to a record obtained in the exercise of a data subject access right include a record obtained at any time in the exercise of a right under section 7 of the 1998 Act.

### PART 3

#### THE GDPR AND PART 2 OF THIS ACT

*Exemptions from the GDPR: restrictions of rules in Articles 13 to 15 of the GDPR*

- 12 In paragraph 20(2) of Schedule 2 to this Act (self-incrimination), the reference to an offence under this Act includes an offence under the 1998 Act or the 1984 Act.

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#### *Manual unstructured data held by FOI public authorities*

- 13 Until the first regulations under section 24(8) of this Act come into force, “the appropriate maximum” for the purposes of that section is—
- (a) where the controller is a public authority listed in Part 1 of Schedule 1 to the Freedom of Information Act 2000, £600, and
  - (b) otherwise, £450.

### **PART 4**

#### LAW ENFORCEMENT AND INTELLIGENCE SERVICES PROCESSING

##### *Logging*

- 14 (1) In relation to an automated processing system set up before 6 May 2016, subsections (1) to (3) of section 62 of this Act do not apply if and to the extent that compliance with them would involve disproportionate effort.
- (2) Sub-paragraph (1) ceases to have effect at the beginning of 6 May 2023.

##### *Regulation 50 of the 2014 Regulations (disapplication of the 1998 Act)*

- 15 Nothing in this Schedule, read with the revocation of regulation 50 of the 2014 Regulations, has the effect of applying a provision of the 1998 Act to the processing of personal data to which Part 4 of the 2014 Regulations applies in a case in which that provision did not apply before the revocation of that regulation.

##### *Maximum fee for data subject access requests to intelligence services*

- 16 Until the first regulations under section 94(4)(b) of this Act come into force, the maximum amount of a fee that may be required by a controller under that section is £10.

### **PART 5**

#### NATIONAL SECURITY CERTIFICATES

##### *National security certificates: processing of personal data under the 1998 Act*

- 17 (1) The repeal of section 28(2) to (12) of the 1998 Act does not affect the application of those provisions after the relevant time with respect to the processing of personal data to which the 1998 Act (including as it has effect by virtue of this Schedule) applies.
- (2) A certificate issued under section 28(2) of the 1998 Act continues to have effect after the relevant time with respect to the processing of personal data to which the 1998 Act (including as it has effect by virtue of this Schedule) applies.
- (3) Where a certificate continues to have effect under sub-paragraph (2) after the relevant time, it may be revoked or quashed in accordance with section 28 of the 1998 Act after the relevant time.

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(4) In this paragraph, “the relevant time” means the time when the repeal of section 28 of the 1998 Act comes into force.

*National security certificates: processing of personal data under the 2018 Act*

18 (1) This paragraph applies to a certificate issued under section 28(2) of the 1998 Act (an “old certificate”) which has effect immediately before the relevant time.

(2) If and to the extent that the old certificate provides protection with respect to personal data which corresponds to protection that could be provided by a certificate issued under section 27, 79 or 111 of this Act, the old certificate also has effect to that extent after the relevant time as if—

- (a) it were a certificate issued under one or more of sections 27, 79 and 111 (as the case may be),
- (b) it provided protection in respect of that personal data in relation to the corresponding provisions of this Act or the applied GDPR, and
- (c) where it has effect as a certificate issued under section 79, it certified that each restriction in question is a necessary and proportionate measure to protect national security.

(3) Where an old certificate also has effect as if it were a certificate issued under one or more of sections 27, 79 and 111, that section has, or those sections have, effect accordingly in relation to the certificate.

(4) Where an old certificate has an extended effect because of sub-paragraph (2), section 130 of this Act does not apply in relation to it.

(5) An old certificate that has an extended effect because of sub-paragraph (2) provides protection only with respect to the processing of personal data that occurs during the period of 1 year beginning with the relevant time (and a Minister of the Crown may curtail that protection by wholly or partly revoking the old certificate).

(6) For the purposes of this paragraph—

- (a) a reference to the protection provided by a certificate issued under—
  - (i) section 28(2) of the 1998 Act, or
  - (ii) section 27, 79 or 111 of this Act,

is a reference to the effect of the evidence that is provided by the certificate;

- (b) protection provided by a certificate under section 28(2) of the 1998 Act is to be regarded as corresponding to protection that could be provided by a certificate under section 27, 79 or 111 of this Act where, in respect of provision in the 1998 Act to which the certificate under section 28(2) relates, there is corresponding provision in this Act or the applied GDPR to which a certificate under section 27, 79 or 111 could relate.

(7) In this paragraph, “the relevant time” means the time when the repeal of section 28 of the 1998 Act comes into force.

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## PART 6

### THE INFORMATION COMMISSIONER

#### *Appointment etc*

- 19 (1) On and after the relevant day, the individual who was the Commissioner immediately before that day—
- (a) continues to be the Commissioner,
  - (b) is to be treated as having been appointed under Schedule 12 to this Act, and
  - (c) holds office for the period—
    - (i) beginning with the relevant day, and
    - (ii) lasting for 7 years less a period equal to the individual's pre-commencement term.
- (2) On and after the relevant day, a resolution passed by the House of Commons for the purposes of paragraph 3 of Schedule 5 to the 1998 Act (salary and pension of Commissioner), and not superseded before that day, is to be treated as having been passed for the purposes of paragraph 4 of Schedule 12 to this Act.
- (3) In this paragraph—
- “pre-commencement term”, in relation to an individual, means the period during which the individual was the Commissioner before the relevant day;
  - “the relevant day” means the day on which Schedule 12 to this Act comes into force.

#### *Accounts*

- 20 (1) The repeal of paragraph 10 of Schedule 5 to the 1998 Act does not affect the duties of the Commissioner and the Comptroller and Auditor General under that paragraph in respect of the Commissioner's statement of account for the financial year beginning with 1 April 2017.
- (2) The Commissioner's duty under paragraph 11 of Schedule 12 to this Act to prepare a statement of account for each financial year includes a duty to do so for the financial year beginning with 1 April 2018.

#### *Annual report*

- 21 (1) The repeal of section 52(1) of the 1998 Act (annual report) does not affect the Commissioner's duty under that subsection to produce a general report on the exercise of the Commissioner's functions under the 1998 Act during the period of 1 year beginning with 1 April 2017 and to lay it before Parliament.
- (2) The repeal of section 49 of the Freedom of Information Act 2000 (annual report) does not affect the Commissioner's duty under that section to produce a general report on the exercise of the Commissioner's functions under that Act during the period of 1 year beginning with 1 April 2017 and to lay it before Parliament.
- (3) The first report produced by the Commissioner under section 139 of this Act must relate to the period of 1 year beginning with 1 April 2018.

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*Fees etc received by the Commissioner*

- 22 (1) The repeal of Schedule 5 to the 1998 Act (Information Commissioner) does not affect the application of paragraph 9 of that Schedule after the relevant time to amounts received by the Commissioner before the relevant time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of Schedule 5 to the 1998 Act comes into force.
- 23 Paragraph 10 of Schedule 12 to this Act applies only to amounts received by the Commissioner after the time when that Schedule comes into force.

*Functions in connection with the Data Protection Convention*

- 24 (1) The repeal of section 54(2) of the 1998 Act (functions to be discharged by the Commissioner for the purposes of Article 13 of the Data Protection Convention), and the revocation of the Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186), do not affect the application of articles 1 to 5 of that Order after the relevant time in relation to a request described in those articles which was made before that time.
- (2) The references in paragraph 9 of Schedule 14 to this Act (Data Protection Convention: restrictions on use of information) to requests made or received by the Commissioner under paragraph 6 or 7 of that Schedule include a request made or received by the Commissioner under article 3 or 4 of the Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186).
- (3) The repeal of section 54(7) of the 1998 Act (duty to notify the European Commission of certain approvals and authorisations) does not affect the application of that provision after the relevant time in relation to an approval or authorisation granted before the relevant time.
- (4) In this paragraph, “the relevant time” means the time when the repeal of section 54 of the 1998 Act comes into force.

*Co-operation with the European Commission: transfers of personal data outside the EEA*

- 25 (1) The repeal of section 54(3) of the 1998 Act (co-operation by the Commissioner with the European Commission etc), and the revocation of the Data Protection (International Co-operation) Order 2000 (S.I. 2000/190), do not affect the application of articles 1 to 4 of that Order after the relevant time in relation to transfers that took place before the relevant time.
- (2) In this paragraph—
- “the relevant time” means the time when the repeal of section 54 of the 1998 Act comes into force;
- “transfer” has the meaning given in article 2 of the Data Protection (International Co-operation) Order 2000 (S.I. 2000/190).

*Charges payable to the Commissioner by controllers*

- 26 (1) The Data Protection (Charges and Information) Regulations 2018 (S.I. 2018/480) have effect after the relevant time (until revoked) as if they were made under section 137 of this Act.



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- (2) In this paragraph, “the relevant time” means the time when section 137 of this Act comes into force.

#### *Requests for assessment*

- 27 (1) The repeal of section 42 of the 1998 Act (requests for assessment) does not affect the application of that section after the relevant time in a case in which the Commissioner received a request under that section before the relevant time, subject to sub-paragraph (2).
- (2) The Commissioner is only required to make an assessment of acts and omissions that took place before the relevant time.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 42 of the 1998 Act comes into force.

#### *Codes of practice*

- 28 (1) The repeal of section 52E of the 1998 Act (effect of codes of practice) does not affect the application of that section after the relevant time in relation to legal proceedings or to the exercise of the Commissioner's functions under the 1998 Act as it has effect by virtue of this Schedule.
- (2) In section 52E of the 1998 Act, as it has effect by virtue of this paragraph, the references to the 1998 Act include that Act as it has effect by virtue of this Schedule.
- (3) For the purposes of subsection (3) of that section, as it has effect by virtue of this paragraph, the data-sharing code and direct marketing code in force immediately before the relevant time are to be treated as having continued in force after that time.
- (4) In this paragraph—  
“the data-sharing code” and “the direct marketing code” mean the codes respectively prepared under sections 52A and 52AA of the 1998 Act and issued under section 52B(5) of that Act;  
“the relevant time” means the time when the repeal of section 52E of the 1998 Act comes into force.

## **PART 7**

### **ENFORCEMENT ETC UNDER THE 1998 ACT**

#### *Interpretation of this Part*

- 29 (1) In this Part of this Schedule, references to contravention of the sixth data protection principle sections are to relevant contravention of any of sections 7, 10, 11 or 12 of the 1998 Act, as they continue to have effect by virtue of this Schedule after their repeal (and references to compliance with the sixth data protection principle sections are to be read accordingly).
- (2) In sub-paragraph (1), “relevant contravention” means contravention in a manner described in paragraph 8 of Part 2 of Schedule 1 to the 1998 Act (sixth data protection principle).

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### *Information notices*

- 30 (1) The repeal of section 43 of the 1998 Act (information notices) does not affect the application of that section after the relevant time in a case in which—
- (a) the Commissioner served a notice under that section before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner requires information after the relevant time for the purposes of—
    - (i) responding to a request made under section 42 of the 1998 Act before that time,
    - (ii) determining whether a data controller complied with the old data protection principles before that time, or
    - (iii) determining whether a data controller complied with the sixth data protection principle sections after that time.
- (2) In section 43 of the 1998 Act, as it has effect by virtue of this paragraph—
- (a) the reference to an offence under section 47 of the 1998 Act includes an offence under section 144 of this Act, and
  - (b) the references to an offence under the 1998 Act include an offence under this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 43 of the 1998 Act comes into force.

### *Special information notices*

- 31 (1) The repeal of section 44 of the 1998 Act (special information notices) does not affect the application of that section after the relevant time in a case in which—
- (a) the Commissioner served a notice under that section before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner requires information after the relevant time for the purposes of—
    - (i) responding to a request made under section 42 of the 1998 Act before that time, or
    - (ii) ascertaining whether section 44(2)(a) or (b) of the 1998 Act was satisfied before that time.
- (2) In section 44 of the 1998 Act, as it has effect by virtue of this paragraph—
- (a) the reference to an offence under section 47 of the 1998 Act includes an offence under section 144 of this Act, and
  - (b) the references to an offence under the 1998 Act include an offence under this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 44 of the 1998 Act comes into force.

### *Assessment notices*

- 32 (1) The repeal of sections 41A and 41B of the 1998 Act (assessment notices) does not affect the application of those sections after the relevant time in a case in which—
- (a) the Commissioner served a notice under section 41A of the 1998 Act before the relevant time (and did not cancel it before that time), or

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- (b) the Commissioner considers it appropriate, after the relevant time, to investigate—
- (i) whether a data controller complied with the old data protection principles before that time, or
  - (ii) whether a data controller complied with the sixth data protection principle sections after that time.
- (2) The revocation of the Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 (S.I. 2014/3282), and the repeals mentioned in sub-paragraph (1), do not affect the application of that Order in a case described in sub-paragraph (1).
- (3) Sub-paragraph (1) does not enable the Secretary of State, after the relevant time, to make an order under section 41A(2)(b) or (c) of the 1998 Act (data controllers on whom an assessment notice may be served) designating a public authority or person for the purposes of that section.
- (4) Section 41A of the 1998 Act, as it has effect by virtue of sub-paragraph (1), has effect as if subsections (8) and (11) (duty to review designation orders) were omitted.
- (5) The repeal of section 41C of the 1998 Act (code of practice about assessment notice) does not affect the application, after the relevant time, of the code issued under that section and in force immediately before the relevant time in relation to the exercise of the Commissioner's functions under and in connection with section 41A of the 1998 Act, as it has effect by virtue of sub-paragraph (1).
- (6) In this paragraph, “the relevant time” means the time when the repeal of section 41A of the 1998 Act comes into force.

#### *Enforcement notices*

- 33 (1) The repeal of sections 40 and 41 of the 1998 Act (enforcement notices) does not affect the application of those sections after the relevant time in a case in which—
- (a) the Commissioner served a notice under section 40 of the 1998 Act before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner is satisfied, after that time, that a data controller —
    - (i) contravened the old data protection principles before that time, or
    - (ii) contravened the sixth data protection principle sections after that time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 40 of the 1998 Act comes into force.

#### *Determination by Commissioner as to the special purposes*

- 34 (1) The repeal of section 45 of the 1998 Act (determination by Commissioner as to the special purposes) does not affect the application of that section after the relevant time in a case in which—
- (a) the Commissioner made a determination under that section before the relevant time, or
  - (b) the Commissioner considers it appropriate, after the relevant time, to make a determination under that section.

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- (2) In this paragraph, “the relevant time” means the time when the repeal of section 45 of the 1998 Act comes into force.

*Restriction on enforcement in case of processing for the special purposes*

- 35 (1) The repeal of section 46 of the 1998 Act (restriction on enforcement in case of processing for the special purposes) does not affect the application of that section after the relevant time in relation to an enforcement notice or information notice served under the 1998 Act—
- (a) before the relevant time, or
  - (b) after the relevant time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 46 of the 1998 Act comes into force.

*Offences*

- 36 (1) The repeal of sections 47, 60 and 61 of the 1998 Act (offences of failing to comply with certain notices and of providing false information etc in response to a notice) does not affect the application of those sections after the relevant time in connection with an information notice, special information notice or enforcement notice served under Part 5 of the 1998 Act—
- (a) before the relevant time, or
  - (b) after that time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 47 of the 1998 Act comes into force.

*Powers of entry*

- 37 (1) The repeal of sections 50, 60 and 61 of, and Schedule 9 to, the 1998 Act (powers of entry) does not affect the application of those provisions after the relevant time in a case in which—
- (a) a warrant issued under that Schedule was in force immediately before the relevant time,
  - (b) before the relevant time, the Commissioner supplied information on oath for the purposes of obtaining a warrant under that Schedule but that had not been considered by a circuit judge or a District Judge (Magistrates' Courts), or
  - (c) after the relevant time, the Commissioner supplies information on oath to a circuit judge or a District Judge (Magistrates' Courts) in respect of—
    - (i) a contravention of the old data protection principles before the relevant time;
    - (ii) a contravention of the sixth data protection principle sections after the relevant time;
    - (iii) the commission of an offence under a provision of the 1998 Act (including as the provision has effect by virtue of this Schedule);
    - (iv) a failure to comply with a requirement imposed by an assessment notice issued under section 41A the 1998 Act (including as it has effect by virtue of this Schedule).

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- (2) In paragraph 16 of Schedule 9 to the 1998 Act, as it has effect by virtue of this paragraph, the reference to an offence under paragraph 12 of that Schedule includes an offence under paragraph 15 of Schedule 15 to this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of Schedule 9 to the 1998 Act comes into force.
- (4) Paragraphs 14 and 15 of Schedule 9 to the 1998 Act (application of that Schedule to Scotland and Northern Ireland) apply for the purposes of this paragraph as they apply for the purposes of that Schedule.

#### *Monetary penalties*

- 38 (1) The repeal of sections 55A, 55B, 55D and 55E of the 1998 Act (monetary penalties) does not affect the application of those provisions after the relevant time in a case in which—
- (a) the Commissioner served a monetary penalty notice under section 55A of the 1998 Act before the relevant time,
  - (b) the Commissioner served a notice of intent under section 55B of the 1998 Act before the relevant time, or
  - (c) the Commissioner considers it appropriate, after the relevant time, to serve a notice mentioned in paragraph (a) or (b) in respect of—
    - (i) a contravention of section 4(4) of the 1998 Act before the relevant time, or
    - (ii) a contravention of the sixth data protection principle sections after the relevant time.
- (2) The revocation of the relevant subordinate legislation, and the repeals mentioned in sub-paragraph (1), do not affect the application of the relevant subordinate legislation (or of provisions of the 1998 Act applied by them) after the relevant time in a case described in sub-paragraph (1).
- (3) Guidance issued under section 55C of the 1998 Act (guidance about monetary penalty notices) which is in force immediately before the relevant time continues in force after that time for the purposes of the Commissioner's exercise of functions under sections 55A and 55B of the 1998 Act as they have effect by virtue of this paragraph.
- (4) In this paragraph—  
“the relevant subordinate legislation” means—
  - (a) the Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 (S.I. 2010/31);
  - (b) the Data Protection (Monetary Penalties) Order 2010 (S.I. 2010/910);“the relevant time” means the time when the repeal of section 55A of the 1998 Act comes into force.

#### *Appeals*

- 39 (1) The repeal of sections 48 and 49 of the 1998 Act (appeals) does not affect the application of those sections after the relevant time in relation to a notice served under the 1998 Act or a determination made under section 45 of that Act—
  - (a) before the relevant time, or

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(b) after that time in reliance on this Schedule.

- (2) In this paragraph, “the relevant time” means the time when the repeal of section 48 of the 1998 Act comes into force.

#### *Exemptions*

- 40 (1) The repeal of section 28 of the 1998 Act (national security) does not affect the application of that section after the relevant time for the purposes of a provision of Part 5 of the 1998 Act as it has effect after that time by virtue of the preceding paragraphs of this Part of this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of the provision of Part 5 of the 1998 Act in question comes into force.
- (3) As regards certificates issued under section 28(2) of the 1998 Act, see Part 5 of this Schedule.

#### *Tribunal Procedure Rules*

- 41 (1) The repeal of paragraph 7 of Schedule 6 to the 1998 Act (Tribunal Procedure Rules) does not affect the application of that paragraph, or of rules made under that paragraph, after the relevant time in relation to the exercise of rights of appeal conferred by section 28 or 48 of the 1998 Act, as they have effect by virtue of this Schedule.
- (2) Part 3 of Schedule 19 to this Act does not apply for the purposes of Tribunal Procedure Rules made under paragraph 7(1)(a) of Schedule 6 to the 1998 Act as they apply, after the relevant time, in relation to the exercise of rights of appeal described in sub-paragraph (1).
- (3) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7 of Schedule 6 to the 1998 Act comes into force.

#### *Obstruction etc*

- 42 (1) The repeal of paragraph 8 of Schedule 6 to the 1998 Act (obstruction etc in proceedings before the Tribunal) does not affect the application of that paragraph after the relevant time in relation to an act or omission in relation to proceedings under the 1998 Act (including as it has effect by virtue of this Schedule).
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 8 of Schedule 6 to the 1998 Act comes into force.

#### *Enforcement etc under the 2014 Regulations*

- 43 (1) The references in the preceding paragraphs of this Part of this Schedule to provisions of the 1998 Act include those provisions as applied, with modifications, by regulation 51 of the 2014 Regulations (other functions of the Commissioner).
- (2) The revocation of regulation 51 of the 2014 Regulations does not affect the application of those provisions of the 1998 Act (as so applied) as described in those paragraphs.

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## PART 8

### ENFORCEMENT ETC UNDER THIS ACT

#### *Information notices*

- 44 In section 143 of this Act—
- (a) the reference to an offence under section 144 of this Act includes an offence under section 47 of the 1998 Act (including as it has effect by virtue of this Schedule), and
  - (b) the references to an offence under this Act include an offence under the 1998 Act (including as it has effect by virtue of this Schedule) or the 1984 Act.

#### *Powers of entry*

- 45 In paragraph 16 of Schedule 15 to this Act (powers of entry: self-incrimination), the reference to an offence under paragraph 15 of that Schedule includes an offence under paragraph 12 of Schedule 9 to the 1998 Act (including as it has effect by virtue of this Schedule).

#### *Tribunal Procedure Rules*

- 46 (1) Tribunal Procedure Rules made under paragraph 7(1)(a) of Schedule 6 to the 1998 Act (appeal rights under the 1998 Act) and in force immediately before the relevant time have effect after that time as if they were also made under section 203 of this Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7(1)(a) of Schedule 6 to the 1998 Act comes into force.

## PART 9

### OTHER ENACTMENTS

#### *Powers to disclose information to the Commissioner*

- 47 (1) The following provisions (as amended by Schedule 19 to this Act) have effect after the relevant time as if the matters they refer to included a matter in respect of which the Commissioner could exercise a power conferred by a provision of Part 5 of the 1998 Act, as it has effect by virtue of this Schedule—
- (a) section 11AA(1)(a) of the Parliamentary Commissioner Act 1967 (disclosure of information by Parliamentary Commissioner);
  - (b) sections 33A(1)(a) and 34O(1)(a) of the Local Government Act 1974 (disclosure of information by Local Commissioner);
  - (c) section 18A(1)(a) of the Health Service Commissioners Act 1993 (disclosure of information by Health Service Commissioner);
  - (d) paragraph 1 of the entry for the Information Commissioner in Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (asp 11) (disclosure of information by the Ombudsman);
  - (e) section 34X(3)(a) of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information by the Ombudsman);

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- (f) section 18(6)(a) of the Commissioner for Older People (Wales) Act 2006 (disclosure of information by the Commissioner);
  - (g) section 22(3)(a) of the Welsh Language (Wales) Measure 2011 (nawm 1) (disclosure of information by the Welsh Language Commissioner);
  - (h) section 49(3)(a) of the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.))(disclosure of information by the Ombudsman);
  - (i) section 44(3)(a) of the Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)) (disclosure of information by the Prison Ombudsman for Northern Ireland).
- (2) The following provisions (as amended by Schedule 19 to this Act) have effect after the relevant time as if the offences they refer to included an offence under any provision of the 1998 Act other than paragraph 12 of Schedule 9 to that Act (obstruction of execution of warrant)—
- (a) section 11AA(1)(b) of the Parliamentary Commissioner Act 1967;
  - (b) sections 33A(1)(b) and 34O(1)(b) of the Local Government Act 1974;
  - (c) section 18A(1)(b) of the Health Service Commissioners Act 1993;
  - (d) paragraph 2 of the entry for the Information Commissioner in Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (asp 11);
  - (e) section 34X(5) of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information by the Ombudsman);
  - (f) section 18(8) of the Commissioner for Older People (Wales) Act 2006;
  - (g) section 22(5) of the Welsh Language (Wales) Measure 2011 (nawm 1);
  - (h) section 49(5) of the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.));
  - (i) section 44(3)(b) of the Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)).
- (3) In this paragraph, “the relevant time”, in relation to a provision of a section or Schedule listed in sub-paragraph (1) or (2), means the time when the amendment of the section or Schedule by Schedule 19 to this Act comes into force.

*Codes etc required to be consistent with the Commissioner's data-sharing code*

- 48 (1) This paragraph applies in relation to the code of practice issued under each of the following provisions—
- (a) section 19AC of the Registration Service Act 1953 (code of practice about disclosure of information by civil registration officials);
  - (b) section 43 of the Digital Economy Act 2017 (code of practice about disclosure of information to improve public service delivery);
  - (c) section 52 of that Act (code of practice about disclosure of information to reduce debt owed to the public sector);
  - (d) section 60 of that Act (code of practice about disclosure of information to combat fraud against the public sector);
  - (e) section 70 of that Act (code of practice about disclosure of information for research purposes).
- (2) During the relevant period, the code of practice does not have effect to the extent that it is inconsistent with the code of practice prepared under section 121 of this Act (data-sharing code) and issued under section 125(4) of this Act (as altered or replaced from time to time).



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- (3) In this paragraph, “the relevant period”, in relation to a code issued under a section mentioned in sub-paragraph (1), means the period—
- (a) beginning when the amendments of that section in Schedule 19 to this Act come into force, and
  - (b) ending when the code is first reissued under that section.
- 49 (1) This paragraph applies in relation to the original statement published under section 45E of the Statistics and Registration Service Act 2007 (statement of principles and procedures in connection with access to information by the Statistics Board).
- (2) During the relevant period, the statement does not have effect to the extent that it is inconsistent with the code of practice prepared under section 121 of this Act (data-sharing code) and issued under section 125(4) of this Act (as altered or replaced from time to time).
- (3) In this paragraph, “the relevant period” means the period—
- (a) beginning when the amendments of section 45E of the Statistics and Registration Service Act 2007 in Schedule 19 to this Act come into force, and
  - (b) ending when the first revised statement is published under that section.

#### *Consumer Credit Act 1974*

- 50 In section 159(1)(a) of the Consumer Credit Act 1974 (correction of wrong information) (as amended by Schedule 19 to this Act), the reference to information given under Article 15(1) to (3) of the GDPR includes information given at any time under section 7 of the 1998 Act.

#### *Freedom of Information Act 2000*

- 51 Paragraphs 52 to 55 make provision about the Freedom of Information Act 2000 (“the 2000 Act”).
- 52 (1) This paragraph applies where a request for information was made to a public authority under the 2000 Act before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of sections 2 and 40 of the 2000 Act in Schedule 19 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Part 1 of the 2000 Act.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of sections 2 and 40 of the 2000 Act in Schedule 19 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Part 1 of the 2000 Act, but
  - (b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act, do not include power to require the authority to take steps which it would not be required to take in order to comply with Part 1 of the 2000 Act as amended by Schedule 19 to this Act.
- (4) In this paragraph—
- “public authority” has the same meaning as in the 2000 Act;

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“the relevant time” means the time when the amendments of sections 2 and 40 of the 2000 Act in Schedule 19 to this Act come into force.

- 53 (1) Tribunal Procedure Rules made under paragraph 7(1)(b) of Schedule 6 to the 1998 Act (appeal rights under the 2000 Act) and in force immediately before the relevant time have effect after that time as if they were also made under section 61 of the 2000 Act (as inserted by Schedule 19 to this Act).
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7(1)(b) of Schedule 6 to the 1998 Act comes into force.
- 54 (1) The repeal of paragraph 8 of Schedule 6 to the 1998 Act (obstruction etc in proceedings before the Tribunal) does not affect the application of that paragraph after the relevant time in relation to an act or omission before that time in relation to an appeal under the 2000 Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 8 of Schedule 6 to the 1998 Act comes into force.
- 55 (1) The amendment of section 77 of the 2000 Act in Schedule 19 to this Act (offence of altering etc record with intent to prevent disclosure: omission of reference to section 7 of the 1998 Act) does not affect the application of that section after the relevant time in relation to a case in which—
- (a) the request for information mentioned in section 77(1) of the 2000 Act was made before the relevant time, and
- (b) when the request was made, section 77(1)(b) of the 2000 Act was satisfied by virtue of section 7 of the 1998 Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 7 of the 1998 Act comes into force.

*Freedom of Information (Scotland) Act 2002*

- 56 (1) This paragraph applies where a request for information was made to a Scottish public authority under the Freedom of Information (Scotland) Act 2002 (“the 2002 Act”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2002 Act in Schedule 19 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Part 1 of the 2002 Act.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2002 Act in Schedule 19 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Part 1 of the 2002 Act, but
- (b) the powers of the Scottish Information Commissioner and the Court of Session, on an application or appeal under the 2002 Act, do not include power to require the authority to take steps which it would not be required to take in order to comply with Part 1 of the 2002 Act as amended by Schedule 19 to this Act.
- (4) In this paragraph—
- “Scottish public authority” has the same meaning as in the 2002 Act;

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“the relevant time” means the time when the amendments of the 2002 Act in Schedule 19 to this Act come into force.

*Access to Health Records (Northern Ireland) Order 1993 (S.I. 1993/1250 (N.I. 4))*

- 57 Until the first regulations under Article 5(4)(a) of the Access to Health Records (Northern Ireland) Order 1993 (as amended by Schedule 19 to this Act) come into force, the maximum amount of a fee that may be required for giving access under that Article is £10.

*Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2450)*

- 58 (1) The repeal of a provision of the 1998 Act does not affect its operation for the purposes of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (“the PECR 2003”) (see regulations 2, 31 and 31B of, and Schedule 1 to, those Regulations).
- (2) Where subordinate legislation made under a provision of the 1998 Act is in force immediately before the repeal of that provision, neither the revocation of the subordinate legislation nor the repeal of the provision of the 1998 Act affect the application of the subordinate legislation for the purposes of the PECR 2003 after that time.
- (3) Part 3 of Schedule 19 to this Act (modifications) does not have effect in relation to the PECR 2003.
- (4) Part 7 of this Schedule does not have effect in relation to the provisions of the 1998 Act as applied by the PECR 2003.

*Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))*

- 59 Part 3 of Schedule 19 to this Act (modifications) does not have effect in relation to the reference to an accessible record within the meaning of section 68 of the 1998 Act in Article 43 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

*Environmental Information Regulations 2004 (S.I. 2004/3391)*

- 60 (1) This paragraph applies where a request for information was made to a public authority under the Environmental Information Regulations 2004 (“the 2004 Regulations”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 19 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Parts 2 and 3 of those Regulations.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2004 Regulations in Schedule 19 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Parts 2 and 3 of those Regulations, but
  - (b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act (as applied by the 2004 Regulations), do not

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include power to require the authority to take steps which it would not be required to take in order to comply with Parts 2 and 3 of those Regulations as amended by Schedule 19 to this Act.

(4) In this paragraph—

“public authority” has the same meaning as in the 2004 Regulations;

“the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 19 to this Act come into force.

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

61 (1) This paragraph applies where a request for information was made to a Scottish public authority under the Environmental Information (Scotland) Regulations 2004 (“the 2004 Regulations”) before the relevant time.

(2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 19 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with those Regulations.

(3) To the extent that the request was dealt with before the relevant time—

(a) the amendments of the 2004 Regulations in Schedule 19 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with those Regulations, but

(b) the powers of the Scottish Information Commissioner and the Court of Session, on an application or appeal under the 2002 Act (as applied by the 2004 Regulations), do not include power to require the authority to take steps which it would not be required to take in order to comply with those Regulations as amended by Schedule 19 to this Act.

(4) In this paragraph—

“Scottish public authority” has the same meaning as in the 2004 Regulations;

“the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 19 to this Act come into force.

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**Changes and effects yet to be applied to :**

- Sch. 20 para. 1 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 2 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 3 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 4 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 5 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 6 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 7 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 8 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 9 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 10 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 11 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 12 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 13 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 14 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 15 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 16 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 17 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 18 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 19 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 20 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 21 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 22 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 23 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 24 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 25 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 26 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 27 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 28 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 29 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 30 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 31 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 32 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 33 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 34 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 35 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 36 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 37 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 38 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 39 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 40 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 41 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 42 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 43 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 44 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 45 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 46 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 47 coming into force by S.I. 2018/625 reg. 2(1)(g)

- Sch. 20 para. 48 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 49 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 50 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 51 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 52 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 53 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 54 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 55 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 56 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 57 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 58 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 59 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 60 coming into force by S.I. 2018/625 reg. 2(1)(g)
- Sch. 20 para. 61 coming into force by S.I. 2018/625 reg. 2(1)(g)