



Data Protection Act 2018

2018 CHAPTER 12

PART 3

LAW ENFORCEMENT PROCESSING

CHAPTER 2

PRINCIPLES

35 The first data protection principle

- (1) The first data protection principle is that the processing of personal data for any of the law enforcement purposes must be lawful and fair.
- (2) The processing of personal data for any of the law enforcement purposes is lawful only if and to the extent that it is based on law and either—
 - (a) the data subject has given consent to the processing for that purpose, or
 - (b) the processing is necessary for the performance of a task carried out for that purpose by a competent authority.
- (3) In addition, where the processing for any of the law enforcement purposes is sensitive processing, the processing is permitted only in the two cases set out in subsections (4) and (5).
- (4) The first case is where—
 - (a) the data subject has given consent to the processing for the law enforcement purpose as mentioned in subsection (2)(a), and
 - (b) at the time when the processing is carried out, the controller has an appropriate policy document in place (see section 42).
- (5) The second case is where—
 - (a) the processing is strictly necessary for the law enforcement purpose,
 - (b) the processing meets at least one of the conditions in Schedule 8, and

Changes to legislation: Data Protection Act 2018, Section 35 is up to date with all changes known to be in force on or before 09 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

- (c) at the time when the processing is carried out, the controller has an appropriate policy document in place (see section 42).
- (6) The Secretary of State may by regulations amend Schedule 8—
 - (a) by adding conditions;
 - (b) by omitting conditions added by regulations under paragraph (a).
- (7) Regulations under subsection (6) are subject to the affirmative resolution procedure.
- (8) In this section, “sensitive processing” means—
 - (a) the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership;
 - (b) the processing of genetic data, or of biometric data, for the purpose of uniquely identifying an individual;
 - (c) the processing of data concerning health;
 - (d) the processing of data concerning an individual's sex life or sexual orientation.

Commencement Information

II S. 35 in force at Royal Assent for specified purposes, see s. 212(2)(f)

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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\(3\)](#)