

SCHEDULE

Article 2

CIRCUMSTANCES IN WHICH SENSITIVE PERSONAL DATA MAY BE PROCESSED

- 1.—(1) The processing—
 - (a) is in the substantial public interest;
 - (b) is necessary for the purposes of the prevention or detection of any unlawful act; and
 - (c) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice those purposes.
- (2) In this paragraph, “act” includes a failure to act.
2. The processing—
 - (a) is in the substantial public interest;
 - (b) is necessary for the discharge of any function which is designed for protecting members of the public against—
 - (i) dishonesty, malpractice, or other seriously improper conduct by, or the unfitness or incompetence of, any person, or
 - (ii) mismanagement in the administration of, or failures in services provided by, any body or association; and
 - (c) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the discharge of that function.
- 3.—(1) The disclosure of personal data—
 - (a) is in the substantial public interest;
 - (b) is in connection with—
 - (i) the commission by any person of any unlawful act (whether alleged or established),
 - (ii) dishonesty, malpractice, or other seriously improper conduct by, or the unfitness or incompetence of, any person (whether alleged or established), or
 - (iii) mismanagement in the administration of, or failures in services provided by, any body or association (whether alleged or established);
 - (c) is for the special purposes as defined in section 3 of the Act; and
 - (d) is made with a view to the publication of those data by any person and the data controller reasonably believes that such publication would be in the public interest.
- (2) In this paragraph, “act” includes a failure to act.
4. The processing—
 - (a) is in the substantial public interest;
 - (b) is necessary for the discharge of any function which is designed for the provision of confidential counselling, advice, support or any other service; and
 - (c) is carried out without the explicit consent of the data subject because the processing—
 - (i) is necessary in a case where consent cannot be given by the data subject,
 - (ii) is necessary in a case where the data controller cannot reasonably be expected to obtain the explicit consent of the data subject, or
 - (iii) must necessarily be carried out without the explicit consent of the data subject being sought so as not to prejudice the provision of that counselling, advice, support or other service.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- 5.—(1) The processing—
- (a) is necessary for the purpose of—
 - (i) carrying on insurance business, or
 - (ii) making determinations in connection with eligibility for, and benefits payable under, an occupational pension scheme as defined in section 1 of the Pension Schemes Act 1993⁽¹⁾;
 - (b) is of sensitive personal data consisting of information falling within section 2(e) of the Act relating to a data subject who is the parent, grandparent, great grandparent or sibling of—
 - (i) in the case of paragraph (a)(i), the insured person, or
 - (ii) in the case of paragraph (a)(ii), the member of the scheme;
 - (c) is necessary in a case where the data controller cannot reasonably be expected to obtain the explicit consent of that data subject and the data controller is not aware of the data subject withholding his consent; and
 - (d) does not support measures or decisions with respect to that data subject.
- (2) In this paragraph—
- (a) “insurance business” means insurance business, as defined in section 95 of the Insurance Companies Act 1982⁽²⁾, falling within Classes I, III or IV of Schedule 1 (classes of long term business) or Classes 1 or 2 of Schedule 2 (classes of general business) to that Act, and
 - (b) “insured” and “member” includes an individual who is seeking to become an insured person or member of the scheme respectively.
6. The processing—
- (a) is of sensitive personal data in relation to any particular data subject that are subject to processing which was already under way immediately before the coming into force of this Order;
 - (b) is necessary for the purpose of—
 - (i) carrying on insurance business, as defined in section 95 of the Insurance Companies Act 1982, falling within Classes I, III or IV of Schedule 1 to that Act; or
 - (ii) establishing or administering an occupational pension scheme as defined in section 1 of the Pension Schemes Act 1993; and
 - (c) either—
 - (i) is necessary in a case where the data controller cannot reasonably be expected to obtain the explicit consent of the data subject and that data subject has not informed the data controller that he does not so consent, or
 - (ii) must necessarily be carried out even without the explicit consent of the data subject so as not to prejudice those purposes.
- 7.—(1) Subject to the provisions of sub-paragraph (2), the processing—
- (a) is of sensitive personal data consisting of information falling within section 2(c) or (e) of the Act;
 - (b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons—
 - (i) holding different beliefs as described in section 2(c) of the Act, or

(1) 1993 c. 48.

(2) 1982 c. 50.

(ii) of different states of physical or mental health or different physical or mental conditions as described in section 2(e) of the Act,

with a view to enabling such equality to be promoted or maintained;

- (c) does not support measures or decisions with respect to any particular data subject otherwise than with the explicit consent of that data subject; and
- (d) does not cause, nor is likely to cause, substantial damage or substantial distress to the data subject or any other person.

(2) Where any individual has given notice in writing to any data controller who is processing personal data under the provisions of sub-paragraph (1) requiring that data controller to cease processing personal data in respect of which that individual is the data subject at the end of such period as is reasonable in the circumstances, that data controller must have ceased processing those personal data at the end of that period.

8.—(1) Subject to the provisions of sub-paragraph (2), the processing—

- (a) is of sensitive personal data consisting of information falling within section 2(b) of the Act;
- (b) is carried out by any person or organisation included in the register maintained pursuant to section 1 of the Registration of Political Parties Act 1998⁽³⁾ in the course of his or its legitimate political activities; and
- (c) does not cause, nor is likely to cause, substantial damage or substantial distress to the data subject or any other person.

(2) Where any individual has given notice in writing to any data controller who is processing personal data under the provisions of sub-paragraph (1) requiring that data controller to cease processing personal data in respect of which that individual is the data subject at the end of such period as is reasonable in the circumstances, that data controller must have ceased processing those personal data at the end of that period.

9. The processing—

- (a) is in the substantial public interest;
- (b) is necessary for research purposes (which expression shall have the same meaning as in section 33 of the Act);
- (c) does not support measures or decisions with respect to any particular data subject otherwise than with the explicit consent of that data subject; and
- (d) does not cause, nor is likely to cause, substantial damage or substantial distress to the data subject or any other person.

10. The processing is necessary for the exercise of any functions conferred on a constable by any rule of law.

(3) 1998 c. 48.