

SCHEDULE 1

Regulation 31

Modifications for the purposes of these Regulations to Part V of the Data Protection Act 1998 and Schedules 6 and 9 to that Act as extended by Regulation 31

1. In section 40—
 - (a) in subsection (1), for the words “data controller” there shall be substituted the word “person”, for the words “data protection principles” there shall be substituted the words “requirements of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (in this Part referred to as “the relevant requirements”)” and for the words “principle or principles” there shall be substituted the words “requirement or requirements”;
 - (b) in subsection (2), the words “or distress” shall be omitted;
 - (c) subsections (3), (4), (5), (9) and (10) shall be omitted; and
 - (d) in subsection (6)(a), for the words “data protection principle or principles” there shall be substituted the words “relevant requirement or requirements.”
2. In section 41(1) and (2), for the words “data protection principle or principles”, in both places where they occur, there shall be substituted the words “relevant requirement or requirements”.
3. Section 42 shall be omitted.
4. In section 43—
 - (a) for subsections (1) and (2) there shall be substituted the following provisions—
 - “(1) If the Commissioner reasonably requires any information for the purpose of determining whether a person has complied or is complying with the relevant requirements, he may serve that person with a notice (in this Act referred to as “an information notice”) requiring him, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to compliance with the relevant requirements as is so specified.
 - (2) An information notice must contain a statement that the Commissioner regards the specified information as relevant for the purpose of determining whether the person has complied or is complying with the relevant requirements and his reason for regarding it as relevant for that purpose.”
 - (b) in subsection (6)(a), after the word “under” there shall be inserted the words “the Privacy and Electronic Communications (EC Directive) Regulations 2003 or”;
 - (c) in subsection (6)(b), after the words “arising out of” there shall be inserted the words “the said Regulations or”;
 - (d) subsection (10) shall be omitted.
5. Sections 44, 45 and 46 shall be omitted.
6. In section 47—
 - (a) in subsection (1), for the words “an information notice or special information notice” there shall be substituted the words “or an information notice”; and
 - (b) in subsection (2) the words “or a special information notice” shall be omitted.
7. In section 48—
 - (a) in subsections (1) and (3), for the words “an information notice or a special information notice”, in both places where they occur, there shall be substituted the words “or an information notice”;
 - (b) in subsection (3) for the words “43(5) or 44(6)” there shall be substituted the words “or 43(5)”; and

- (c) subsection (4) shall be omitted.
8. In section 49 subsection (5) shall be omitted.
9. In paragraph 4(1) of Schedule (6), for the words “(2) or (4)” there shall be substituted the words “or (2)”.
10. In paragraph 1 of Schedule 9—
- (a) for subparagraph (1)(a) there shall be substituted the following provision—
- “(a) that a person has contravened or is contravening any of the requirements of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (in this Schedule referred to as “the 2003 Regulations”) or”; and
- (b) subparagraph (2) shall be omitted.
11. In paragraph 9 of Schedule 9—
- (a) in subparagraph (1)(a) after the words “rights under” there shall be inserted the words “the 2003 Regulations or”; and
- (b) in subparagraph (1)(b) after the words “arising out of” there shall be inserted the words “the 2003 Regulations or”.

SCHEDULE 2

Regulation 36

Transitional provisions

Interpretation

1. In this Schedule “the 1999 Regulations” means the Telecommunications (Data Protection and Privacy) Regulations 1999 and “caller” has the same meaning as in regulation 21 of the 1999 Regulations.

Directories

2.—(1) Regulation 18 of these Regulations shall not apply in relation to editions of directories first published before 11th December 2003.

(2) Where the personal data of a subscriber have been included in a directory in accordance with Part IV of the 1999 Regulations, the personal data of that subscriber may remain included in that directory provided that the subscriber—

- (a) has been provided with information in accordance with regulation 18 of these Regulations; and
- (b) has not requested that his data be withdrawn from that directory.

(3) Where a request has been made under subparagraph (2) for data to be withdrawn from a directory, that request shall be treated as having no application in relation to an edition of a directory that was produced before the producer of the directory received the request.

(4) For the purposes of subparagraph (3), an edition of a directory, which is revised after it was first produced, shall be treated as a new edition.

Notifications

3.—(1) A notification of consent given to a caller by a subscriber for the purposes of regulation 22(2) of the 1999 Regulations is to have effect on and after 11th December 2003 as a notification given by that subscriber for the purposes of regulation 19(2) of these Regulations.

(2) A notification given to a caller by a corporate subscriber for the purposes of regulation 23(2)(a) of the 1999 Regulations is to have effect on and after 11th December 2003 as a notification given by that subscriber for the purposes of regulation 20(1)(b) of these Regulations.

(3) A notification of consent given to a caller by an individual subscriber for the purposes of regulation 24(2) of the 1999 Regulations is to have effect on and after 11th December 2003 as a notification given by that subscriber for the purposes of regulation 20(2) of these Regulations.

(4) A notification given to a caller by an individual subscriber for the purposes of regulation 25(2)(a) of the 1999 Regulations is to have effect on and after the 11th December 2003 as a notification given by that subscriber for the purposes of regulation 21(1) of these Regulations.

Registers kept under regulations 25 and 26

4.—(1) A notification given by a subscriber pursuant to regulation 23(4)(a) of the 1999 Regulations to the Director General of Telecommunications (or to such other person as is discharging his functions under regulation 23(4) of the 1999 Regulations on his behalf by virtue of an arrangement made under regulation 23(6) of those Regulations) is to have effect on or after 11th December 2003 as a notification given pursuant to regulation 25(1) of these Regulations.

(2) A notification given by a subscriber who is an individual pursuant to regulation 25(4)(a) of the 1999 Regulations to the Director General of Telecommunications (or to such other person as is discharging his functions under regulation 25(4) of the 1999 Regulations on his behalf by virtue of an arrangement made under regulation 25(6) of those Regulations) is to have effect on or after 11th December 2003 as a notification given pursuant to regulation 26(1) of these Regulations.

References in these Regulations to OFCOM

5. In relation to times before an order made under section 411(1) of the Communications Act 2003 brings any of the provisions of Part 2 of Chapter 1 of that Act into force for the purpose of conferring on OFCOM the functions contained in those provisions, references to OFCOM in these Regulations are to be treated as references to the Director General of Telecommunications.

(1) For the commencement of section 411, see section 411(2) and (3) of the Communications Act 2003 (c. 21).