

SCHEDULE 3

Regulation 34

TRANSITORY AND TRANSITIONAL PROVISIONS

Provisions relating to regulation 8

1.—(1) For the purposes of this paragraph, such data as are mentioned in paragraph (1) of regulation 8 are eligible data at any time if, and to the extent that, they are at that time subject to processing which was already under way immediately before 1st March 2000 being processing by a telecommunications service provider for the purposes of marketing telecommunications services provided by him (“the existing processing”).

(2) This paragraph shall apply where the telecommunications service provider concerned has given a subscriber written notice of the existing processing and of the effect of this paragraph (“a notified subscriber”).

(3) Subject as hereinafter provided, for the purposes of regulation 8(2) in relation to the continued processing of eligible data which constitute personal data whereof the data subject is a notified subscriber, or, in the case of a notified corporate subscriber, would constitute such data if that subscriber were an individual, the notified subscriber shall be deemed to have given his consent.

(4) If, within 2 months of a notified subscriber having been given the notice referred to in sub-paragraph (2), he expresses his dissent by written notice given to the telecommunications service provider concerned, then, in the case of that subscriber, the provider concerned shall cease, as soon as is reasonably practicable, the continued processing of eligible data in pursuance of sub-paragraph (3).

(5) Without prejudice to sub-paragraph (4), where a notified subscriber is deemed to have given his consent for the purposes of regulation 7(2), that consent may be withdrawn by him as though it were a consent actually given.

Provision relating to Part IV

2. Part IV shall not apply in relation to such a directory as is mentioned in regulation 17(1) which is comprised in an edition first published before 1st March 2000.

Provisions relating to Part V

3.—(1) Where, immediately before 1st March 2000, the number, in respect of a particular line, allocated to a subscriber who is an individual, was listed in the record kept under regulation 9(4)(a) of the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998⁽¹⁾ by reason only of regulation 10(5) of those Regulations⁽²⁾, then, for the purposes of regulation 25(4)(a) of these Regulations, that subscriber shall, as respects that line, be deemed to have notified the Director as mentioned in the said regulation 25(4)(a), and that notification may be withdrawn by him as though it were a notification actually given.

(2) The reference in regulation 27(4) to the record kept under paragraph (4) of the regulation in question, that is to say regulation 23 or 25, shall be construed, in relation to a time before 1st March 2000, as a reference to the record kept under paragraph (4) of the corresponding regulation of the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998, that is to say regulation 7 or 9 thereof.

(1) S.I.1998/3170.

(2) Regulation 10(5) is inserted by regulation 3(2) of these Regulations and Part I of Schedule 1 thereto.

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

(3) The provisions of this paragraph are without prejudice to those of section 17(2) of the Interpretation Act 1978(3).

Provisions relating to enforcement etc

4.—(1) This paragraph shall apply in relation to enforcement notices under section 10 of the Data Protection Act 1984 as applied by regulation 13(1) of the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998; and nothing in paragraph 7 of Schedule 14 to the Data Protection Act 1998 shall apply in relation to such notices.

(2) If, immediately before 1st March 2000—

- (a) such an enforcement notice has effect, and
- (b) either the time for appealing against the notice has expired or any appeal has been determined,

then the notice shall have effect for the purposes of sections 41 and 47 of the Data Protection Act 1998 as if it were an enforcement notice under section 40 thereof as extended by regulation 36(1) of these Regulations.

(3) Where such an enforcement notice has been served and, immediately before 1st March 2000—

- (a) the time for appealing against the notice has not expired, or
- (b) an appeal has not been determined,

any appeal shall be determined in accordance with the provisions of the Data Protection Act 1984 and, unless the notice is quashed on appeal, the notice shall have effect for the purposes of sections 41 and 47 of the Data Protection Act 1998 as if it were an enforcement notice under section 40 thereof as extended as aforesaid.

5.—(1) Part VII of these Regulations shall have effect as if any reference therein to these Regulations included a reference to the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998.

(2) Sections 40, 41 and 43 of the Data Protection Act 1998, as extended by regulation 36(1) of these Regulations, shall have effect as if any reference therein to these Regulations included a reference to the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998 and, accordingly, as if any reference therein to a relevant requirement included a reference to a requirement of the said Regulations of 1998.

(3) Schedule 9 to the said Act of 1998, as extended as aforesaid, shall have effect as if any reference therein to these Regulations (including a reference to “the 1999 Regulations”) included a reference to the Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998.

(3) 1978 c. 30. Section 17(2) is applied to subordinate legislation by section 23(1).