

Regulation (EU) 2016/679 of the European Parliament and of the Council
of 27 April 2016 on the protection of natural persons with regard to the
processing of personal data and on the free movement of such data (United
Kingdom General Data Protection Regulation)(Text with EEA relevance)

CHAPTER IV

Controller and processor

Section 5

Codes of conduct and certification

Article 42

Certification

1 [F¹The Commissioner] shall encourage F²... the establishment of data protection certification mechanisms and of data protection seals and marks, for the purpose of demonstrating compliance with this Regulation of processing operations by controllers and processors. The specific needs of micro, small and medium-sized enterprises shall be taken into account.

2 In addition to adherence by controllers or processors subject to this Regulation, data protection certification mechanisms, seals or marks approved pursuant to paragraph 5 of this Article may be established for the purpose of demonstrating the existence of appropriate safeguards provided by controllers or processors that are not subject to this Regulation pursuant to Article 3 within the framework of personal data transfers to third countries or international organisations under the terms referred to in point (f) of Article 46(2). Such controllers or processors shall make binding and enforceable commitments, via contractual or other legally binding instruments, to apply those appropriate safeguards, including with regard to the rights of data subjects.

3 The certification shall be voluntary and available via a process that is transparent.

4 A certification pursuant to this Article does not reduce the responsibility of the controller or the processor for compliance with this Regulation and is without prejudice to the tasks and powers of [F³the Commissioner].

5 A certification pursuant to this Article shall be issued by the certification bodies referred to in Article 43 or by [F⁴the Commissioner], on the basis of criteria approved by [F⁵the Commissioner] pursuant to Article 58(3) F⁶... . Where the criteria are approved by the Board, this may result in a common certification, the European Data Protection Seal.

6 The controller or processor which submits its processing to the certification mechanism shall provide the certification body referred to in Article 43, or where applicable, [F⁷the Commissioner], with all information and access to its processing activities which are necessary to conduct the certification procedure.

Changes to legislation: There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Article 42. (See end of Document for details)

[^{X17} Certification shall be issued to a controller or processor for a maximum period of three years and may be renewed, under the same conditions, provided that the relevant criteria continue to be met. Certification shall be withdrawn, as applicable, by the certification bodies referred to in Article 43 or by [^{F8}the Commissioner] where the criteria for the certification are not or are no longer met.]

8 [^{F9}The Commissioner] shall collate all certification mechanisms and data protection seals and marks in a register and shall make them publicly available by any appropriate means.

Editorial Information

- X1** Substituted by Corrigendum to Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (Official Journal of the European Union L 119 of 4 May 2016).

Textual Amendments

- F1** Words in Art. 42(1) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(2)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Art. 42(1) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(2)(b)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 42(4) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(3)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Art. 42(5) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(4)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Art. 42(5) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(4)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in Art. 42(5) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(4)(c)** (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in Art. 42(6) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(5)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F8** Words in Art. 42(7) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(6)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in Art. 42(8) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 1 para. 36(7)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2016/679 of the European Parliament and of the Council, Article 42.