
Changes to legislation: Data Protection Act 2018, PART 4 is up to date with all changes known to be in force on or before 16 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

SCHEDULES

SCHEDULE 1

SPECIAL CATEGORIES OF PERSONAL DATA AND CRIMINAL CONVICTIONS ETC DATA

PART 4

APPROPRIATE POLICY DOCUMENT AND ADDITIONAL SAFEGUARDS

Application of this Part of this Schedule

- 38 This Part of this Schedule makes provision about the processing of personal data carried out in reliance on a condition in Part 1, 2 or 3 of this Schedule which requires the controller to have an appropriate policy document in place when the processing is carried out.

Requirement to have an appropriate policy document in place

- 39 The controller has an appropriate policy document in place in relation to the processing of personal data in reliance on a condition described in paragraph 38 if the controller has produced a document which—
- (a) explains the controller's procedures for securing compliance with the principles in Article 5 of the [F1UK GDPR] (principles relating to processing of personal data) in connection with the processing of personal data in reliance on the condition in question, and
 - (b) explains the controller's policies as regards the retention and erasure of personal data processed in reliance on the condition, giving an indication of how long such personal data is likely to be retained.

Textual Amendments

- F1** Words in Sch. 1 para. 39(a) 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. 2 para. 91\(4\)](#) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Additional safeguard: retention of appropriate policy document

- 40 (1) Where personal data is processed in reliance on a condition described in paragraph 38, the controller must during the relevant period—
- (a) retain the appropriate policy document,
 - (b) review and (if appropriate) update it from time to time, and
 - (c) make it available to the Commissioner, on request, without charge.

Changes to legislation: Data Protection Act 2018, PART 4 is up to date with all changes known to be in force on or before 16 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

- (2) “Relevant period”, in relation to the processing of personal data in reliance on a condition described in paragraph 38, means a period which—
- (a) begins when the controller starts to carry out processing of personal data in reliance on that condition, and
 - (b) ends at the end of the period of 6 months beginning when the controller ceases to carry out such processing.

Additional safeguard: record of processing

- 41 A record maintained by the controller, or the controller's representative, under Article 30 of the [F2UK GDPR] in respect of the processing of personal data in reliance on a condition described in paragraph 38 must include the following information—
- (a) which condition is relied on,
 - (b) how the processing satisfies Article 6 of the [F2UK GDPR] (lawfulness of processing), and
 - (c) whether the personal data is retained and erased in accordance with the policies described in paragraph 39(b) and, if it is not, the reasons for not following those policies.

Textual Amendments

- F2** Words in Sch. 1 para. 41 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. 2 para. 91(5) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

Data Protection Act 2018, PART 4 is up to date with all changes known to be in force on or before 16 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.

[View outstanding changes](#)

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\(3\)](#)