

Status: Point in time view as at 01/12/2020.

Changes to legislation: Data Protection Act 2018, SCHEDULE 18 is up to date with all changes known to be in force on or before 05 June 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)

SCHEDULES

SCHEDULE 18 **U.K.**

Section 184

RELEVANT RECORDS

Relevant records

- 1 (1) In section 184, “relevant record” means—
- (a) a relevant health record (see paragraph 2),
 - (b) a relevant record relating to a conviction or caution (see paragraph 3), or
 - (c) a relevant record relating to statutory functions (see paragraph 4).
- (2) A record is not a “relevant record” to the extent that it relates, or is to relate, only to personal data which falls within section 21(2) (manual unstructured personal data held by FOI public authorities).

Relevant health records

- 2 “Relevant health record” means a health record which has been or is to be obtained by a data subject in the exercise of a data subject access right.

Relevant records relating to a conviction or caution

- 3 (1) “Relevant record relating to a conviction or caution” means a record which—
- (a) has been or is to be obtained by a data subject in the exercise of a data subject access right from a person listed in sub-paragraph (2), and
 - (b) contains information relating to a conviction or caution.
- (2) Those persons are—
- (a) the chief constable of a police force maintained under section 2 of the Police Act 1996;
 - (b) the Commissioner of Police of the Metropolis;
 - (c) the Commissioner of Police for the City of London;
 - (d) the Chief Constable of the Police Service of Northern Ireland;
 - (e) the chief constable of the Police Service of Scotland;
 - (f) the Director General of the National Crime Agency;
 - (g) the Secretary of State.
- (3) In this paragraph—
- “caution” means a caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, is admitted;
- “conviction” has the same meaning as in the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27)).

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Relevant records relating to statutory functions

- 4 (1) “Relevant record relating to statutory functions” means a record which—
- (a) has been or is to be obtained by a data subject in the exercise of a data subject access right from a person listed in sub-paragraph (2), and
 - (b) contains information relating to a relevant function in relation to that person.
- (2) Those persons are—
- (a) the Secretary of State;
 - (b) the Department for Communities in Northern Ireland;
 - (c) the Department of Justice in Northern Ireland;
 - (d) the Scottish Ministers;
 - (e) the Disclosure and Barring Service.
- (3) In relation to the Secretary of State, the “relevant functions” are—
- (a) the Secretary of State's functions in relation to a person sentenced to detention under—
 - (i) section 92 of the Powers of Criminal Courts (Sentencing) Act 2000, [F1(i)a) section 260 of the Sentencing Code,]
 - (ii) section 205(2) or 208 of the Criminal Procedure (Scotland) Act 1995, or
 - (iii) Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9));
 - (b) the Secretary of State's functions in relation to a person imprisoned or detained under—
 - (i) the Prison Act 1952,
 - (ii) the Prisons (Scotland) Act 1989, or
 - (iii) the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.));
 - (c) the Secretary of State's functions under—
 - (i) the Social Security Contributions and Benefits Act 1992,
 - (ii) the Social Security Administration Act 1992,
 - (iii) the Jobseekers Act 1995,
 - (iv) Part 5 of the Police Act 1997,
 - (v) Part 1 of the Welfare Reform Act 2007, or
 - (vi) Part 1 of the Welfare Reform Act 2012.
- (4) In relation to the Department for Communities in Northern Ireland, the “relevant functions” are its functions under—
- (a) the Social Security Contributions and Benefits (Northern Ireland) Act 1992,
 - (b) the Social Security Administration (Northern Ireland) Act 1992,
 - (c) the Jobseekers (Northern Ireland) Order 1995 (S.I. 1995/2705 (N.I. 15)), or
 - (d) Part 1 of the Welfare Reform Act (Northern Ireland) 2007 (c. 2 (N.I.)).
- (5) In relation to the Department of Justice in Northern Ireland, the “relevant functions” are its functions under Part 5 of the Police Act 1997.
- (6) In relation to the Scottish Ministers, the “relevant functions” are their functions under
- (a) Part 5 of the Police Act 1997, or
 - (b) Parts 1 and 2 of the Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14).

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- (7) In relation to the Disclosure and Barring Service, the “relevant functions” are its functions under—
- (a) Part 5 of the Police Act 1997,
 - (b) the Safeguarding Vulnerable Groups Act 2006, or
 - (c) the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 (S.I. 2007/1351 (N.I. 11)).

Textual Amendments

- F1** Sch. 18 para. 4(3)(a)(ia) inserted (1.12.2020) by Sentencing Act 2020 (c. 17), s. 416(1), Sch. 24 para. 297 (with Sch. 27); S.I. 2020/1236, reg. 2

Data subject access right

- 5 In this Schedule, “data subject access right” means a right under—
- (a) Article 15 of the GDPR (right of access by the data subject);
 - (b) Article 20 of the GDPR (right to data portability);
 - (c) section 45 of this Act (law enforcement processing: right of access by the data subject);
 - (d) section 94 of this Act (intelligence services processing: right of access by the data subject).

Records stating that personal data is not processed

- 6 For the purposes of this Schedule, a record which states that a controller is not processing personal data relating to a particular matter is to be taken to be a record containing information relating to that matter.

Power to amend

- 7 (1) The Secretary of State may by regulations amend this Schedule.
- (2) Regulations under this paragraph are subject to the affirmative resolution procedure.

Commencement Information

- I1** Sch. 18 para. 7 in force at Royal Assent for specified purposes, see s. 212(2)(f)

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