



Data Protection Act 2018

2018 CHAPTER 12

PART 2

GENERAL PROCESSING

CHAPTER 3

[^{F1}EXEMPTIONS FOR MANUAL UNSTRUCTURED PROCESSING AND FOR NATIONAL SECURITY AND DEFENCE PURPOSES]

Exemptions etc

26 National security and defence exemption

- (1) A provision of [^{F1}the UK GDPR] or this Act mentioned in subsection (2) does not apply to personal data to which [^{F2}the UK GDPR] applies if exemption from the provision is required for—
- (a) the purpose of safeguarding national security, or
 - (b) defence purposes.
- (2) The provisions are—
- (a) Chapter II of [^{F3}the UK GDPR] (principles) except for—
 - (i) Article 5(1)(a) (lawful, fair and transparent processing), so far as it requires processing of personal data to be lawful;
 - (ii) Article 6 (lawfulness of processing);
 - (iii) Article 9 (processing of special categories of personal data);
 - (b) Chapter III of [^{F4}the UK GDPR] (rights of data subjects);
 - (c) in Chapter IV of [^{F5}the UK GDPR]—
 - (i) Article 33 (notification of personal data breach to the Commissioner);
 - (ii) Article 34 (communication of personal data breach to the data subject);

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- (d) Chapter V of [^{F6}the UK GDPR] (transfers of personal data to third countries or international organisations);
- (e) in Chapter VI of [^{F7}the UK GDPR]—
 - (i) Article 57(1)(a) and (h) (Commissioner's duties to monitor and enforce [^{F7}the UK GDPR] and to conduct investigations);
 - (ii) Article 58 (investigative, corrective, authorisation and advisory powers of Commissioner);
- (f) Chapter VIII of [^{F8}the UK GDPR] (remedies, liabilities and penalties) except for—
 - (i) Article 83 (general conditions for imposing administrative fines);
 - (ii) Article 84 (penalties);
- [^{F9}(fa) in Part 2 of this Act, sections 17A, 17B and 17C (transfers to third countries);]
- (g) in Part 5 of this Act—
 - (i) in section 115 (general functions of the Commissioner), subsections (3) and (8);
 - (ii) in section 115, subsection (9), so far as it relates to Article 58(2)(i) of [^{F10}the UK GDPR];
 - (iii) section 119 (inspection in accordance with international obligations);
 - [^{F11}(iv) section 119A (standard clauses for transfers to third countries);]
- (h) in Part 6 of this Act—
 - (i) sections 142 to 154 and Schedule 15 (Commissioner's notices and powers of entry and inspection);
 - (ii) sections 170 to 173 (offences relating to personal data);
- (i) in Part 7 of this Act, section 187 (representation of data subjects).

Textual Amendments

- F1** Words in s. 26(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. 2 para. 34(2)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in s. 26(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. 2 para. 34(2)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in s. 26(2)(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. 34(3)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in s. 26(2)(b) 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. 34(3)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in s. 26(2)(c) 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. 34(3)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Words in s. 26(2)(d) 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. 34(3)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F7** Words in s. 26(2)(e) 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. 34(3)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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- F8** Words in s. 26(2)(f) 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. 34(3)(c)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F9** S. 26(2)(fa) inserted (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. 34(3)(d)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in s. 26(2)(g)(ii) 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. 34(3)(e)(i)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F11** S. 26(2)(g)(iv) inserted (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. 34(3)(e)(ii)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

Modifications etc. (not altering text)

- C1** Pt. 2 Ch. 3 applied (31.12.2020) by Regulation (EU) No. 625/2017, Art. 143 (as substituted by [The Official Controls \(Animals, Feed and Food, Plant Health etc.\) \(Amendment\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1481\)](#), regs. 1, **27(3)** (with reg. 46))

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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\(3\)](#)