



# Data Protection Act 2018

## 2018 CHAPTER 12

### PART 3

#### LAW ENFORCEMENT PROCESSING

### CHAPTER 2

#### PRINCIPLES

#### **35 The first data protection principle**

- (1) The first data protection principle is that the processing of personal data for any of the law enforcement purposes must be lawful and fair.
- (2) The processing of personal data for any of the law enforcement purposes is lawful only if and to the extent that it is based on law and either—
  - (a) the data subject has given consent to the processing for that purpose, or
  - (b) the processing is necessary for the performance of a task carried out for that purpose by a competent authority.
- (3) In addition, where the processing for any of the law enforcement purposes is sensitive processing, the processing is permitted only in the two cases set out in subsections (4) and (5).
- (4) The first case is where—
  - (a) the data subject has given consent to the processing for the law enforcement purpose as mentioned in subsection (2)(a), and
  - (b) at the time when the processing is carried out, the controller has an appropriate policy document in place (see section 42).
- (5) The second case is where—
  - (a) the processing is strictly necessary for the law enforcement purpose,
  - (b) the processing meets at least one of the conditions in Schedule 8, and

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) at the time when the processing is carried out, the controller has an appropriate policy document in place (see section 42).
- (6) The Secretary of State may by regulations amend Schedule 8—
  - (a) by adding conditions;
  - (b) by omitting conditions added by regulations under paragraph (a).
- (7) Regulations under subsection (6) are subject to the affirmative resolution procedure.
- (8) In this section, “sensitive processing” means—
  - (a) the processing of personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade union membership;
  - (b) the processing of genetic data, or of biometric data, for the purpose of uniquely identifying an individual;
  - (c) the processing of data concerning health;
  - (d) the processing of data concerning an individual’s sex life or sexual orientation.