
EXPLANATORY NOTE

(This note is not part of the Order)

Section 54(3) of the Data Protection Act 1998 provides that the Secretary of State may by Order make provision as to co-operation between the Data Protection Commissioner, the European Commission and other supervisory authorities in EEA States.

Article 3(3) of this Order obliges the Commissioner to give to the European Commission and supervisory authorities his reasons for being satisfied that a transfer or proposed transfer has involved or would involve a transfer to a country or territory outside the EEA which has inadequate protection for the rights and freedoms of data subjects in relation to the processing of personal data. Such a transfer would be a breach of the eighth data protection principle in Part I of Schedule 1 to the 1998 Act. Where another Member State or its supervisory authority has authorised a transfer to such a third country or territory, article 4 allows the Commissioner to inform the European Commission.

Article 5 of the Order extends the enforcement powers of the Commissioner under Part V of the Act so that they can be exercised in relation to certain data controllers who are processing data in the United Kingdom but to whom the Act does not apply by virtue of section 5 of the Act (which relates to jurisdiction). The powers can only be exercised by the Commissioner following a request from the supervisory authority of the EEA State the laws of which apply to the data controller. Article 6 allows the Commissioner to make similar requests for assistance where a data controller within the scope of the Commissioner's functions is processing data in another EEA State.

Article 7 permits the Commissioner to supply other information to the European Commission or supervisory authorities where that information is necessary for the discharge of their data protection functions.

This Order contributes to the implementation of Directive [95/46/EC](#) on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

A Regulatory Impact Assessment was prepared for the Data Protection Bill as it was then and the statutory instruments to be made under it, and was placed in the libraries of both Houses of Parliament. The Regulatory Impact Assessment is now available on the internet at www.homeoffice.gov.uk. Alternatively, copies can be obtained by post from the Home Office, LGDP Unit, 50 Queen Anne's Gate, London SW1H 9AT.