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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Data Protection (Notification and Notification Fees) Regulations 2000 (“the 2000 Regulations”).

Section 17(1) of the Data Protection Act 1998 (“the 1998 Act”) requires all data controllers to provide a notification to the Information Commissioner and be included on the register of data controllers maintained by the Commissioner under section 19 of the 1998 Act. A data controller is any person who determines the purposes for which and manner in which any personal data are or are to be processed (section 1(1) of the 1998 Act).

Regulation 2 of these Regulations amends the 2000 Regulations to provide an exemption from the obligation to notify in the case of processing for the purposes of judicial functions by a judge or a person acting on the instructions, or on behalf, of a judge.

Under section 18 of the 1998 Act a notification to the Information Commissioner must be accompanied by a prescribed fee. Under section 19 of the 1998 Act any application for a data controller to continue to appear on the register (which must be done annually) must also be accompanied by a prescribed fee. The fee is prescribed in regulation 7 of the 2000 Regulations for the purposes of section 18 of the 1998 Act and in regulation 14 of the 2000 Regulations for the purposes of section 19. The current fee is a flat fee of £35.

Regulations 3 and 4 of these Regulations replace the flat fee with a two-tiered fee structure. The fee for a data controller in tier 1 is £35 and the fee for a data controller in tier 2 is £500. The tier a data controller falls into is based on its turnover and its number of members of staff. If a data controller is a public authority only its number of members of staff is taken into account. Regulation 3 of these Regulations substitutes a new regulation 7 of the 2000 Regulations to create the new fees for the first notification. It also adds a new regulation 7A to the 2000 Regulations containing supplementary provision in relation to regulations 7 and 14, including the definition of the two tiers. Regulation 4 of these Regulations substitutes a new regulation 14 of the 2000 Regulations to create the new fees for the renewal of notification.