

TRANSPOSITION NOTE FOR DIRECTIVE 2002/58/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 12 JULY 2002
concerning the processing of personal data and the protection of privacy in the electronic communications sector
(Directive on privacy and electronic communications)

As amended by DIRECTIVE 2009/136/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 25 NOVEMBER 2009

Article	Objective	Implementation	Responsibility
1(3), 6(1) and (5), 9(1) and (3), 15(1)	<p>Article 1(3) provides that the Directive shall not apply to activities concerning, <i>inter alia</i>, public security.</p> <p>Article 6(1) requires Member States to ensure that traffic data relating to users or subscribers is erased or made anonymous when no longer needed for the purpose of transmitting a communication.</p> <p>Article 6(5) requires Member States to ensure that traffic data is only processed for certain purposes.</p> <p>Article 9(1) requires Member States to ensure that location data (other than traffic data) relating to users or subscribers is only processed when the data is made anonymous or with the consent of the users or subscribers for the provision of a value added service. Article 9(3) requires Member States to ensure that location data is processed by the communications provider or a third party providing a value added service only for the purposes of providing the value added service.</p>	<p>Regulation 16A of the Privacy and Electronic Communications Regulations 2003 (the "2003 Regulations") permits certain providers communications services to disregard restrictions on the processing of traffic and location data that would otherwise be imposed on them by regulations 7(1), 8(2), 14(2) and 14(5) of the 2003 Regulations, which transpose articles 6(1), 6(5), 9(1) and 9(3) of the Directive into UK law. The providers are only permitted to do this for the purposes of providing an emergency alert service to the public or testing such a service, and only when notified by a designated public authority either that an emergency threatens serious damage to human welfare, the environment or UK security, or that it is necessary to test an emergency alert service to ensure that it would be effective in the event of an emergency. The providers must act in accordance with directions given by the designated authority. Only a provider or a person acting under the</p>	The Information Commissioner

	<p>Article 15(1) provides that Member States may adopt legislative measures to restrict the scope of, inter alia, articles 6 and 9 where necessary, appropriate and proportionate to safeguard public security.</p>	<p>provider's authority may process the traffic and location data. Regulation 16A places a limit on the length of time that providers may retain the traffic and location data they process, unless the data is modified in such a way that the data cannot identify an individual or corporate body.</p>	
<p>15a (1)</p>	<p>Requires Member States to lay down rules on penalties, including criminal sanctions where appropriate, applicable to infringements of the national provisions adopted pursuant to Directive 2002/58/EC. Requires that those penalties must be effective, proportionate and dissuasive and may be applied to cover the period of any breach, even where a breach has subsequently been rectified</p>	<p>Schedule 1 of the Privacy and Electronic Communications Regulations 2003 (the "2003 Regulations"), modifies certain provisions of the Data Protection Act 1998 for application of those provisions under the 2003 Regulations. Regulations 2(3) and 2(4) provide amendments to the modifications of section 55A as contained in Schedule 1 of the 2003 Regulations in order to lower the threshold at which the Information Commissioner may take action for enforcement of Regulations 19 to 24 of the 2003 Regulations.</p>	<p>The Information Commissioner</p>