
STATUTORY INSTRUMENTS

2018 No. 625

**The Data Protection Act 2018 (Commencement No. 1
and Transitional and Saving Provisions) Regulations 2018**

Transitional and saving provisions relating to the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016

4.—(1) In this regulation—

“the 1998 Act” means the Data Protection Act 1998⁽¹⁾;

“the eIDAS Regulation” means Regulation (EU) No 910/2014 of the European Parliament and of the Council on electronic identification and trust services for electronic transactions in the internal market⁽²⁾, as amended from time to time;

“the EITSET Regulations” means the Electronic Identification and Trust Services for Electronic Transactions Regulations 2016⁽³⁾;

“the new Schedule” means Schedule 2 to the EITSET Regulations as inserted by paragraph 406 of Schedule 19 to the 2018 Act;

“the old Schedule” means Schedule 2 to the EITSET Regulations as it is in force immediately before 25th May 2018.

(2) This regulation has effect for the purposes of enforcing the EITSET Regulations and the eIDAS Regulation.

(3) On or after 25th May 2018—

(a) an information notice served under section 43 of the 1998 Act as applied by the old Schedule, and not cancelled before 25th May 2018, has effect as if given under section 142 of the 2018 Act as applied by the new Schedule;

(b) an assessment notice served under section 41A of the 1998 Act as applied by the old Schedule, and not cancelled before 25th May 2018, has effect as if given under section 146 of the 2018 Act as applied by the new Schedule;

(c) an enforcement notice served under section 40 of the 1998 Act as applied by the old Schedule, and not cancelled before 25th May 2018, has effect as if given under section 149 of the 2018 Act as applied by the new Schedule;

(d) any steps taken before 25th May under Schedule 9 to the 1998 Act (powers of entry and inspection) as applied by the old Schedule in connection with an application for a warrant (including the issuing of a warrant) that has not been decided, or a warrant that remains in force, immediately before 25th May 2018 are to be treated as having been taken under Schedule 15 to the 2018 Act;

(e) an appeal under section 48 of the 1998 Act as applied by the old Schedule which has not been decided or otherwise ended before 25th May 2018 has effect as if it were an appeal under section 162 of the 2018 Act as applied by the new Schedule, subject to paragraph (5).

⁽¹⁾ 1998 c.29.

⁽²⁾ OJ No L257, 28.8.2014, p73.

⁽³⁾ S.I. 2016/696.

(4) A notice or step described in paragraph (3) which satisfied the requirements of the 1998 Act when it was given or taken before 25th May 2018 is to be treated as valid after that time even if it does not satisfy a requirement under the 2018 Act.

(5) In the case of an appeal under section 48(3) of the 1998 Act as applied by the old Schedule (appeal against urgency statement) which has not been decided or otherwise ended before 25th May 2018—

(a) paragraph (3)(e) does not apply; and

(b) the repeal of section 48 of the 1998 Act, the substitution of the old Schedule and paragraph (3) do not affect the application of that section and that Schedule to the case on or after 25th May 2018.

(6) A penalty notice may not be given under section 155 of the 2018 Act as applied by the new Schedule in relation to a failure to comply with an information notice, assessment notice or enforcement notice originally served under the 1998 Act as applied by the old Schedule.

(7) The substitution of the new Schedule for the old Schedule does not affect the application, on or after 25th May 2018, of sections 47(1) and 60 of the 1998 Act (offence of failing to comply with certain notices) as applied by the old Schedule in connection with an information or enforcement notice served under the 1998 Act as applied by the old Schedule.