

Data Protection Bill [HL]

SIXTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

The amendments have been marshalled in accordance with the Instruction of 24th October 2017, as follows –

Clauses 1 to 9	Clauses 111 and 112
Schedule 1	Schedule 12
Clauses 10 to 14	Clauses 113 and 114
Schedules 2 to 4	Schedule 13
Clauses 15 and 16	Clauses 115 and 116
Schedule 5	Schedule 14
Clauses 17 to 20	Clauses 117 to 147
Schedule 6	Schedule 15
Clauses 21 to 28	Clause 148
Schedule 7	Schedule 16
Clauses 29 to 33	Clauses 149 to 171
Schedule 8	Schedule 17
Clauses 34 to 84	Clauses 172 to 190
Schedules 9 and 10	Schedule 18
Clauses 85 to 110	Clauses 191 to 194
Schedule 11	Title

[Amendments marked ★ are new or have been altered]

**Amendment
No.**

Clause 143

LORD BLACK OF BRENTWOOD

163A Page 79, line 16, at end insert –

“() Prior to giving an enforcement notice under section 142(1) against an information society service in respect of material originating from a third party controller or processor processing personal data for one of the special purposes, the Commissioner must consult and take into account any representations made by the third party, save in circumstances where consulting the third party would result in substantial damage or substantial distress to an individual, in which case the Commissioner must take into account the special importance of the public interest in the freedom of expression and information.

Clause 143 - continued

- () The Commissioner must publish a summary of any enforcement notice issued against an information society service in respect of material processed by a third party controller or processor for any of the special purposes.”

Clause 145

BARONESS HAMWEE
LORD ARBUTHNOT OF EDROM
BARONESS NEVILLE-ROLFE

163B Page 81, line 2, at beginning insert –

- “(A1) An enforcement notice does not require a person to give the Commissioner information in respect of a communication which is made –
- (a) between a professional legal adviser and the adviser’s client, and
 - (b) in connection with the giving of legal advice to the client.
- (A2) An enforcement notice does not require a person to give the Commissioner information in respect of a communication which is made –
- (a) between a professional legal adviser and the adviser’s client or between such an adviser or client and another person,
 - (b) in connection with or in contemplation of legal proceedings, and
 - (c) for the purposes of such proceedings.
- (A3) In subsections (A1) and (A2), references to the client of a professional legal adviser include references to a person acting on behalf of the client.”

Clause 148

LORD ASHTON OF HYDE

164 Page 81, line 38, leave out paragraphs (b) and (c) and insert “or

- () has failed to comply with an information notice, an assessment notice or an enforcement notice,”

LORD BLACK OF BRENTWOOD

164A Page 82, line 33, at end insert –

- “() any other financial penalties imposed by another regulator as a result of the failure.”

BARONESS HAMWEE
LORD ARBUTHNOT OF EDROM
BARONESS NEVILLE-ROLFE

164B Page 82, line 33, at end insert –

- “() whether the data controller or processor has been prevented from providing information to the Commissioner by reason of obligations of confidentiality, obligations arising from legal professional privilege, obligations arising under data protection legislation, or professional obligations.”

Clause 148 - continued

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

- 164C** Page 82, line 41, at end insert –
“() Within the period of three months, beginning with the day on which this Act comes into force, the Commissioner must specify in guidance what constitutes “other failures” under subsection (5)(a).”

Schedule 16

LORD ASHTON OF HYDE

- 165** Page 189, line 9, after first “notice” insert “to a person”
- 166** Page 189, line 11, at end insert “, subject to sub-paragraph (3).
(3) The period for giving a penalty notice to a person may be extended by agreement between the Commissioner and the person.”
- 167** Page 189, line 21, leave out paragraph (d)

Clause 150

LORD ASHTON OF HYDE

- 168** Page 83, line 40, after “with” insert “an information notice, an assessment notice or”

Clause 151

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

- 168A** Page 84, line 14, leave out subsections (1) to (6) and insert –
“(1) The Secretary of State must by regulations specify the amount of the penalty for a failure to comply with regulations made under section 132.
(2) The Secretary of State may specify different amounts for different types of failure.
(3) The maximum amount that may be specified is 150% of the highest charge payable by a controller in respect of a financial year in accordance with the regulations, disregarding any discount available under the regulations.
(4) Before making regulations under this section, the Secretary of State must consult –
(a) the Commissioner,
(b) such other persons as the Secretary of State considers appropriate.
(5) Regulations made under this section are subject to the affirmative procedure.”

Clause 153

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

- 168B** Page 85, line 3, leave out “produce and publish” and insert “prepare”
- 168C** Page 85, line 11, at end insert –
- “(2A) When guidance is prepared under subsection 153(1) –
- (a) the Commissioner must submit the final version to the Secretary of State, and
 - (b) the Secretary of State must lay the guidance before Parliament.
- (2B) If, within the 40-day period, either House of Parliament resolves not to approve the guidance, the Commissioner must not issue the guidance.
- (2C) If no such resolution is made within that period –
- (a) the Commissioner must issue the guidance, and
 - (b) the guidance comes into force at the end of the period of 21 days beginning with the day on which it is issued.
- (2D) If, as a result of subsection (2B), there is no guidance in place under section 153(1), the Commissioner must prepare another version of the guidance.
- (2E) Nothing in subsection (2B) prevents another version of the guidance being laid before Parliament.
- (2F) In this section, “the 40-day period” means –
- (a) if the code is laid before both Houses of Parliament on the same day, the period of 40 days beginning with that day, or
 - (b) if the code is laid before the Houses of Parliament on different days, the period of 40 days beginning with the later of those days.
- (2G) In calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses of Parliament are adjourned for more than 4 days.
- (2H) This section, other than subsection (2E), applies in relation to amendments prepared under section 153(1) as it applies in relation to guidance prepared under that section.”
- 168D** Page 85, line 42, leave out paragraphs (a) and (b) and insert “may alter or replace the guidance subject to the requirements in subsections (2A) to (2H).”

After Clause 153

BARONESS NEVILLE-ROLFE
LORD ARBUTHNOT OF EDROM

169 Insert the following new Clause—

“The role of the Secretary of State and the Commissioner in informing data controllers of their duties

- (1) The Secretary of State must ensure, either directly or by imposing a duty on the Commissioner, that sufficient information about the duties imposed on businesses by this Act is made publicly available not less than six months before the sections of this Act covered by section 191(1) come into force.
- (2) In exercising the duty in subsection (1) the Secretary of State must—
 - (a) ensure that information setting out the additional duties created by this Act and the GDPR over and above the Data Protection Act 1998 is available online, and
 - (b) have regard to the creation of online training and testing about meeting the requirements of the regime created by this Act.
- (3) Before making regulations under section 191(1), the Secretary of State must lay a report before both Houses of Parliament outlining the steps taken to comply with this section.”

LORD CLEMENT-JONES
LORD PADDICK

As an amendment to Amendment 169

170 In subsection (1), after “businesses” insert “and charities”

Clause 159

LORD HUNT OF WIRRAL

170A Page 89, line 16, leave out “, distress and other adverse effects” and insert “and distress”

After Clause 160

EARL ATTLEE

170AA★ Insert the following new Clause—

“Publishers of news-related material: damages and costs

- (1) This section applies where—
 - (a) a relevant claim for breach of the data protection legislation is made against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time, and
 - (c) the claim is related to the publication of news-related material.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that—

After Clause 160 - continued

- (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator, or
 - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.
- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that—
- (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
 - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.
- (5) This section is not to be read as limiting any power to make rules of court.
- (6) This section does not apply until such time as a body is first recognised as an approved regulator.”

170AB★ Insert the following new Clause—

“Publishers of news-related material: interpretive provisions

- (1) This section applies for the purposes of section (*Publishers of news-related material: damages and costs*).
- (2) “Approved regulator” means a body recognised as a regulator of relevant publishers.
- (3) For the purposes of subsection (2), a body is “recognised” as a regulator of relevant publishers if it is so recognised by any body established by Royal Charter (whether established before or after the coming into force of this section) with the purpose of carrying on activities relating to the recognition of independent regulators of relevant publishers.
- (4) “Relevant claim” means a civil claim made in respect of data protection under the data protection legislation.
- (5) The “material time”, in relation to a relevant claim, is the time of the events giving rise to the claim.
- (6) “News-related material” means—
 - (a) news or information about current affairs,
 - (b) opinion about matters relating to the news or current affairs, or
 - (c) gossip about celebrities, other public figures or other persons in the news.
- (7) A relevant claim is related to the publication of news-related material if the claim results from—
 - (a) the publication of news-related material, or
 - (b) activities carried on in connection with the publication of such material (whether or not the material is in fact published).

After Clause 160 - continued

- (8) A reference to the “publication” of material is a reference to publication—
- (a) on a website,
 - (b) in hard copy, or
 - (c) by any other means;
- and references to a person who “publishes” material are to be read accordingly.
- (9) A reference to “conduct” includes a reference to omissions; and a reference to a person’s conduct includes a reference to a person’s conduct after the events giving rise to the claim concerned.
- (10) “Relevant publisher” has the same meaning as in section 41 of the Crime and Courts Act 2013.”

170AC★ Insert the following new Clause—

“Availability of Conditional Fee Agreements for data protection claims against publishers of news-related material

- (1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) After section 48, insert—

“Sections 44 and 46 and media claims

 - (1) Sections 44 and 46 may not be brought into force in relation to proceedings relating to relevant claims against publishers of news-related material for damages.
 - (2) In this section “news-related material” has the same meaning as in section 42 of the Crime and Courts Act 2013.
 - (3) In this section “relevant claims” refers to claims under the data protection legislation.””

Clause 161

LORD BLACK OF BRENTWOOD

170B Page 90, line 20, at end insert—

“() was for the special purposes and that the person acted in the reasonable belief that the obtaining, disclosing, procuring or retaining was in the public interest.”

170C Page 90, line 36, at end insert—

“() For the purposes of subsection (1), where processing is for the special purposes, the obtaining, procuring and retaining of personal data will not be deemed reckless as a result of it being received—

- (a) from an anonymous source, or
- (b) unsolicited.”

Clause 162

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

170CA Page 91, line 3, leave out “de-identified” and insert “anonymised”

170CB Page 91, line 4, at end insert –

“() A person is exempted from committing an offence under subsection (1) if the re-identification is performed exclusively to demonstrate how the personal data can be re-identified or is vulnerable to attacks.”

170CC Page 91, line 9, leave out paragraph (b) and insert –

“(b) re-identification is defined as the act of linking data (including auxiliary information) belonging to an individual across data sets when at least one of the data sets is pseudonymised or anonymised.”

LORD BLACK OF BRENTWOOD

170D Page 91, line 18, at end insert –

“() was for the special purposes and that the person acted in the reasonable belief that the re-identification was in the public interest.”

LORD CLEMENT-JONES

LORD PADDICK

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

170E Page 91, line 31, at end insert “, or

(c) the person had received retroactive approval for all actions taken.”

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

170F Page 92, line 5, at end insert –

“() Within three months of the commencement of this section, the Commissioner must publish guidance relating to the offences under subsections (1) and (5).”

170G Page 92, line 5, at end insert –

“() The Commissioner must set standards by which a data controller is required to anonymise personal data.

() In setting these standards, the Commissioner may consider –

- (a) the use of modern privacy enhancing technologies as a means to use personal data anonymously;
- (b) the use of modern Privacy-Enhancing Technologies (PET) towards the anonymous use of personal data;
- (c) the advice of information security specialists;
- (d) means of ensuring that the procedure used to anonymise personal data is documented and made available to data subjects.”

Clause 162 - continued

170H Page 92, line 12, at end insert—

“() In this section, the act of disseminating personal data not in compliance with the Commissioner’s guidance on anonymisation may be considered an offence under subsection (1).”

LORD MCNALLY
LORD CLEMENT-JONES
BARONESS NEVILLE-ROLFE

The above-named Lords give notice of their intention to oppose the Question that Clause 162 stand part of the Bill.

Clause 163

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

170J Page 92, line 24, at end insert—

“() In this section, a request made by a data subject under subsection (1)(a) includes, but is not limited to, requests about reviews written by a third party about workers.”

Clause 164

BARONESS HOLLINS

170K★ Page 92, line 43, after ““the” insert “non-journalistic”

170L★ Page 93, line 1, leave out paragraph (a)

170M★ Page 93, line 5, after “Part,” insert ““non-journalistic”

LORD ASHTON OF HYDE

171 Page 93, line 6, leave out from “processor” to “which” in line 7

BARONESS HOLLINS

171A★ Page 93, line 8, after “the” insert “non-journalistic”

LORD ASHTON OF HYDE

172 Page 93, line 8, at end insert “and which are—

- (a) proceedings under section 158 (including proceedings on an application under Article 79 of the GDPR), or
- (b) proceedings under Article 82 of the GDPR or section 160 .”

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

172ZA Page 93, line 9, leave out subsection (3)

Clause 164 - continued

LORD BLACK OF BRENTWOOD
VISCOUNT COLVILLE OF CULROSS

172A Page 93, line 11, leave out “only”

BARONESS HOLLINS

172AA★ Page 93, line 11, after second “the” insert “non-journalistic”

LORD BLACK OF BRENTWOOD
VISCOUNT COLVILLE OF CULROSS

172B Page 93, line 12, leave out paragraph (b) and insert –
“(b) the processing is not being undertaken with a view to the publication by any person of any journalistic, academic, artistic or literary material which has not previously been published by the controller;”

LORD BLACK OF BRENTWOOD
VISCOUNT COLVILLE OF CULROSS
LORD MCNALLY
LORD CLEMENT-JONES

172C Page 93, line 15, leave out paragraph (c)

BARONESS HOLLINS

172E★ Page 93, line 32, after “to” insert “non-journalistic”

Clause 165

LORD BLACK OF BRENTWOOD
VISCOUNT COLVILLE OF CULROSS

The above-named Lords give notice of their intention to oppose the Question that Clause 165 stand part of the Bill.

Clause 166

BARONESS HOLLINS

172E★ Page 94, line 27, after “any” insert “non-journalistic”

LORD ASHTON OF HYDE

173 Page 94, line 27, leave out “or tribunal”

174 Page 94, line 28, leave out “or tribunal”

LORD BLACK OF BRENTWOOD
VISCOUNT COLVILLE OF CULROSS

174A Page 94, line 30, leave out “only”

Clause 166 - continued

BARONESS HOLLINS

174AA★ Page 94, line 30, after “the” insert “non-journalistic”

LORD BLACK OF BRENTWOOD
VISCOUNT COLVILLE OF CULROSS

174B Page 94, line 31, at end insert “any”

LORD ASHTON OF HYDE

175 Page 94, line 34, leave out “or tribunal”

176 Page 94, line 34, after “stay” insert “or, in Scotland, sist”

177 Page 94, line 38, leave out “or tribunal”

178 Page 94, line 38, after “stay” insert “or sist”

179 Page 94, line 42, after “stayed” insert “or sisted”

After Clause 167

BARONESS HOLLINS

179A★ Insert the following new Clause—

“Inquiry into allegations of data protection breaches committed by or on behalf of news publishers

- (1) A Minister must, within one month of Royal Assent, establish an inquiry under the Inquiries Act 2005 into allegations of data protection breaches committed by or on behalf of news publishers.
- (2) The inquiry’s terms of reference must include, but is not limited, to—
 - (a) to inquire, in respect of personal data processing, into the extent of unlawful or improper conduct within news publishers and, as appropriate, other organisations within the media, and by those responsible for holding personal data.
 - (b) to inquire, in respect of personal data processing, into the extent of corporate governance and management failures at news publishers.
 - (c) in the light of these inquiries, to consider the implications for data protection and to recommend what actions, if any, should be taken.”

Clause 168

LORD ASHTON OF HYDE

180 Page 95, leave out lines 23 to 26

Clause 169

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

180A Page 96, line 1, after “Commissioner” insert “, data subjects and persons who appear to the Commissioner to represent the interests of data subjects,”

180B Page 96, line 3, leave out paragraph (a)

LORD ASHTON OF HYDE

181 Page 96, line 8, leave out “or 24”

After Clause 169

BARONESS NEVILLE-ROLFE
LORD ARBUTHNOT OF EDROM

182 Insert the following new Clause—

“Super-affirmative resolution procedure

- (1) For the purposes of this Act the “super-affirmative resolution procedure” is as follows.
- (2) The Minister must have regard to—
 - (a) any representations,
 - (b) any resolution of either House of Parliament, and
 - (c) any recommendations of a committee of either House of Parliament charged with reporting on the draft order,
 made during the 60-day period with regard to the draft order.
- (3) If, after the expiry of the 60-day period, the Minister wishes to make an order in the terms of the draft, he must lay before Parliament—
 - (a) a statement—
 - (i) stating whether any representations were made under subsection (2)(a), and
 - (ii) if any representations were so made, giving details of them; and
 - (b) an assessment of the likely impact of the order on—
 - (i) industry,
 - (ii) charities, and
 - (iii) public authorities.
- (4) The Minister may after the laying of such a statement make an order in the terms of the draft if it is approved by a resolution of each House of Parliament.
- (5) However, a committee of either House charged with reporting on the draft order may, at any time after the laying of a statement under subsection (3) and before the draft order is approved by that House under subsection (4), recommend under this subsection that no further proceedings be taken in relation to the draft order.
- (6) Where a recommendation is made by a committee of either House under subsection (5) in relation to a draft order, no proceedings may be taken in relation to the draft order in that House under subsection (4) unless the recommendation is, in the same session, rejected by resolution of that House.

After Clause 169 - continued

- (7) If, after the expiry of the 60-day period, the Minister wishes to make an order consisting of a version of the draft order with material changes, he must lay before Parliament—
- (a) a revised draft order;
 - (b) a statement giving details of—
 - (i) any representations made under subsection (2)(a); and
 - (ii) the revisions proposed; and
 - (c) an assessment of the likely impact of the revised order on—
 - (i) industry;
 - (ii) charities; and
 - (iii) public authorities.
- (8) The Minister may after laying a revised draft order and statement under subsection (7) make an order in the terms of the revised draft if it is approved by a resolution of each House of Parliament.
- (9) However, a committee of either House charged with reporting on the revised draft order may, at any time after the revised draft order is laid under subsection (7) and before it is approved by that House under subsection (8), recommend under this subsection that no further proceedings be taken in relation to the revised draft order.
- (10) Where a recommendation is made by a committee of either House under subsection (9) in relation to a revised draft order, no proceedings may be taken in relation to the revised draft order in that House under subsection (8) unless the recommendation is, in the same session, rejected by resolution of that House.
- (11) For the purposes of subsections (4) and (8) an order is made in the terms of a draft order if it contains no material changes to the provisions of the draft order.
- (12) In this section the “60-day period” means the period of 60 days beginning with the day on which the draft order was laid before Parliament.”

LORD WHITTY

As an amendment to Amendment 182

182A After subsection (2) insert—

- “() The Minister must consult the Commissioner, data subjects and organisations representing the interests of data subjects before making a draft order under the procedure set out in this section.”

As an amendment to Amendment 182

182B After subsection (3)(b)(i) insert—

- “() data subjects,”

As an amendment to Amendment 182

182C After subsection (7)(c)(i) insert—

- “() data subjects,”

Clause 170

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

- 182D** Page 96, line 29, leave out “or appropriate”
- 182E** Page 96, line 32, leave out “includes” and insert “is limited to the”
- 182F** Page 96, line 34, after “amend” insert “Part 4 of”
- 182G** Page 96, line 36, at end insert—
“() No regulations may be made under this section after the expiration of the period of three years beginning with the day on which this Act is passed.”

Before Clause 171

LORD CLEMENT-JONES
LORD PADDICK

- 183** Insert the following new Clause—
- “Right to information about individual decisions by public bodies based on algorithmic profiling**
- (1) Where—
- (a) a public authority profiles a data subject (within the meaning of Article 4(4) of the applied GDPR), and
 - (b) the results produced by this profile are applied to a data subject, including informing a decision about them,
- the relevant data subject is entitled to request from the public authority meaningful information relating to the profiling.
- (2) Information provided on the basis of a request made under subsection (1) must include, at least—
- (a) the degree and the mode of contribution of the profiling to the decision made;
 - (b) the provenance of the data that forms the basis of the profile applied;
 - (c) the data of the relevant data subject used to generate the profile in accordance with Article 15(1) of the applied GDPR;
 - (d) the weightings, or, where appropriate, the output of a comparable explanation facility, of the profiling system, applied to the situation of the person concerned; and
 - (e) where applicable, information on activities undertaken to ensure the compliance of the profiling system with the public sector equality duty (within the meaning of section 150(1) of the Equality Act 2010).
- (3) For the purposes of this paragraph a “public authority” means a public authority within the meaning of the Freedom of Information Act 2000 or a person who is engaged by a public authority to exercise a public function.
- (4) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

Before Clause 171 - continued

- (5) Where a data subject makes a request under subsection (1), the controller must comply with the request without undue delay.”

Clause 172

LORD CLEMENT-JONES
LORD PADDICK
LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

- 183A Page 97, line 44, after “in” insert “or associated with”

Clause 173

LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK
BARONESS JONES OF MOULSECOOMB

- 184 Page 98, line 20, at end insert –

“() In relation to the processing of personal data to which the GDPR applies, Article 80(2) of the GDPR (representation of data subjects) permits and this Act provides that a body or other organisation which meets the conditions set out in that Article has the right to lodge a complaint, or exercise the rights, independently of a data subject’s mandate, under –

- (a) Article 77 (right to lodge a complaint with a supervisory body);
- (b) Article 78 (right to an effective judicial remedy against a supervisory authority); and
- (c) Article 79 (right to an effective judicial remedy against a controller or processor),

of the GDPR if it considers that the rights of a data subject under the GDPR have been infringed as a result of the processing.”

LORD CLEMENT-JONES
LORD PADDICK
LORD STEVENSON OF BALMACARA
LORD KENNEDY OF SOUTHWARK

- 185 Page 98, line 30, at end insert –

“() A body or other organisation which meets the conditions in subsections (3) and (4) may also exercise some or all of the rights under subsection (2) independently of the data subject's authorisation.”

After Clause 174

LORD ASHTON OF HYDE

- 185A Insert the following new Clause –

“Framework for Data Processing by Government

Framework for Data Processing by Government

After Clause 174 - continued

- (1) The Secretary of State may prepare a document, called the Framework for Data Processing by Government, which contains guidance about the processing of personal data in connection with the exercise of functions of –
 - (a) the Crown, a Minister of the Crown or a United Kingdom government department, and
 - (b) a person with functions of a public nature who is specified or described in regulations made by the Secretary of State.
- (2) The document may make provision relating to all of those functions or only to particular functions or persons.
- (3) The document may not make provision relating to, or to the functions of, a part of the Scottish Administration, the Welsh Government, a Northern Ireland Minister or a Northern Ireland department.
- (4) The Secretary of State may from time to time prepare amendments of the document or a replacement document.
- (5) Before preparing a document or amendments under this section, the Secretary of State must consult –
 - (a) the Commissioner, and
 - (b) any other person the Secretary of State considers it appropriate to consult.
- (6) Regulations under subsection (1)(b) are subject to the negative resolution procedure.
- (7) In this section, “Northern Ireland Minister” includes the First Minister and deputy First Minister in Northern Ireland.”

185B Insert the following new Clause –

“Approval of the Framework

- (1) Before issuing a document prepared under section (*Framework for Data Processing by Government*), the Secretary of State must lay it before Parliament.
- (2) If, within the 40-day period, either House of Parliament resolves not to approve the document, the Secretary of State must not issue it.
- (3) If no such resolution is made within that period –
 - (a) the Secretary of State must issue the document, and
 - (b) the document comes into force at the end of the period of 21 days beginning with the day on which it is issued.
- (4) Nothing in subsection (2) prevents another version of the document being laid before Parliament.
- (5) In this section, “the 40-day period” means –
 - (a) if the document is laid before both Houses of Parliament on the same day, the period of 40 days beginning with that day, or
 - (b) if the document is laid before the Houses of Parliament on different days, the period of 40 days beginning with the later of those days.

After Clause 174 - continued

- (6) In calculating the 40-day period, no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses of Parliament are adjourned for more than 4 days.
- (7) This section applies in relation to amendments prepared under section (*Framework for Data Processing by Government*) as it applies in relation to a document prepared under that section.”

185C Insert the following new Clause –

“Publication and review of the Framework

- (1) The Secretary of State must publish a document issued under section (*Approval of the Framework*)(3).
- (2) Where an amendment of a document is issued under section (*Approval of the Framework*)(3), the Secretary of State must publish –
 - (a) the amendment, or
 - (b) the document as amended by it.
- (3) The Secretary of State must keep under review the document issued under section (*Approval of the Framework*)(3) for the time being in force.
- (4) Where the Secretary of State becomes aware that the terms of such a document could result in a breach of an international obligation of the United Kingdom, the Secretary of State must exercise the power under section (*Framework for Data Processing by Government*)(4) with a view to remedying the situation.”

185D Insert the following new Clause –

“Effect of the Framework

- (1) When carrying out processing of personal data which is the subject of a document issued under section (*Approval of the Framework*)(3) which is for the time being in force, a person must have regard to the document.
- (2) A failure to act in accordance with a provision of such a document does not of itself make a person liable to legal proceedings in a court or tribunal.
- (3) A document issued under section (*Approval of the Framework*)(3), including an amendment or replacement document, is admissible in evidence in legal proceedings.
- (4) In any legal proceedings before a court or tribunal, the court or tribunal must take into account a provision of any document issued under section (*Approval of the Framework*)(3) in determining a question arising in the proceedings if –
 - (a) the question relates to a time when the provision was in force, and
 - (b) the provision appears to the court or tribunal to be relevant to the question.
- (5) In determining a question arising in connection with the carrying out of any of the Commissioner’s functions, the Commissioner must take into account a provision of a document issued under section (*Approval of the Framework*)(3) if –
 - (a) the question relates to a time when the provision was in force, and

After Clause 174 - continued

- (b) the provision appears to the Commissioner to be relevant to the question.”

Clause 175

LORD MCNALLY

185E★ Page 99, line 26, leave out “161”

185F★ Page 99, line 31, at end insert—

“() A person who commits an offence under section 161 is liable—

- (a) on summary conviction, to imprisonment for a term not exceeding 12 months (or, in Northern Ireland, 6 months) or to a fine not exceeding the statutory maximum or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

Clause 184

LORD ASHTON OF HYDE

186 Page 105, line 21, at end insert “(and related expressions are to be read accordingly)”

Clause 185

LORD ASHTON OF HYDE

187 Page 106, leave out lines 8 and 9

Clause 187

LORD ARBUTHNOT OF EDROM

188 Page 109, line 14, leave out “12” and insert “13”

Schedule 18

LORD ASHTON OF HYDE

188A Leave out Schedule 18 and insert the following new Schedule—

“SCHEDULE 18

MINOR AND CONSEQUENTIAL AMENDMENTS

Part 1

ACTS AND MEASURES

Parliamentary Commissioner Act 1967 (c. 13)

- 1 In section 11AA(1) of the Parliamentary Commissioner Act 1967 (disclosure of information by Parliamentary Commissioner to Information Commissioner)—
- (a) in paragraph (a), for sub-paragraph (i) substitute—

Schedule 18 - continued

- “(i) sections 137 to 147, 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement),” and
- (b) for paragraph (b) substitute—
 - “(b) the commission of an offence under—
 - (i) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or
 - (ii) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

Local Government Act 1974 (c. 7)

- 2 The Local Government Act 1974 is amended as follows.
- 3 In section 33A(1) (disclosure of information by Local Commissioner to Information Commissioner)—
 - (a) in paragraph (a), for sub-paragraph (i) substitute—
 - “(i) sections 137 to 147 , 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement),” and
 - (b) for paragraph (b) substitute—
 - “(b) the commission of an offence under—
 - (i) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or
 - (ii) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”
- 4 In section 34O(1) (disclosure of information by Local Commissioner to Information Commissioner)—
 - (a) in paragraph (a), for sub-paragraph (i) substitute—
 - “(i) sections 137 to 147 , 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement),” and
 - (b) for paragraph (b) substitute—
 - “(b) the commission of an offence under—
 - (i) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or
 - (ii) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

Consumer Credit Act 1974 (c. 39)

- 5 The Consumer Credit Act 1974 is amended as follows.

Schedule 18 - continued

- 6 In section 157(2A) (duty to disclose name etc of agency) –
- (a) in paragraph (a), for “the Data Protection Act 1998” substitute “the GDPR”, and
 - (b) in paragraph (b), after “any” insert “other”.
- 7 In section 159(1)(a) (correction of wrong information) for “section 7 of the Data Protection Act 1998” substitute “Article 15(1) to (3) of the GDPR (confirmation of processing, access to data and safeguards for third country transfers)”.
- 8 In section 189(1) (definitions), at the appropriate place insert –
- ““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2 (10), (11) and (14) of that Act);”.

Medical Act 1983 (c. 54)

- 9 The Medical Act 1983 is amended as follows.
- 10 (1) Section 29E (evidence) is amended as follows.
- (2) In subsection (5), after “enactment” insert “or the GDPR”.
 - (3) For subsection (7) substitute –
 - “(7) In determining for the purposes of subsection (5) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2017 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.”
- 11 (1) Section 35A (General Medical Council’s power to require disclosure of information) is amended as follows.
- (2) In subsection (4), after “enactment” insert “or the GDPR”.
 - (3) For subsection (5A) substitute –
 - “(5A) In determining for the purposes of subsection (4) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2017 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.”
- 12 In section 55 (interpretation), at the appropriate place insert –
- ““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2 (10), (11) and (14) of that Act);”.
- 13 (1) Paragraph 5A of Schedule 4 (professional performance assessments and health assessments) is amended as follows.
- (2) In sub-paragraph (8), after “enactment” insert “or the GDPR”.
 - (3) For sub-paragraph (8A) substitute –

Schedule 18 - continued

“(8A) In determining for the purposes of sub-paragraph (8) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2017 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this paragraph.”

Dentists Act 1984 (c. 24)

14 The Dentists Act 1984 is amended as follows.

15 (1) Section 33B (the General Dental Council’s power to require disclosure of information: the dental profession) is amended as follows.

(2) In subsection (3), after “enactment” insert “or relevant provision of the GDPR”.

(3) For subsection (4) substitute –

“(4) For the purposes of subsection (3) –

“relevant enactment” means any enactment other than –

(a) this Act, or

(b) the listed provisions in paragraph 1 of Schedule 11 to the Data Protection Act 2017 (exemptions to Part 4: disclosures required by law);

“relevant provision of the GDPR” means any provision of the GDPR apart from the listed GDPR provisions in paragraph 1 of Schedule 2 to the Data Protection Act 2017 (GDPR provisions to be adapted or restricted: disclosures required by law).”

(4) After subsection (10) insert –

“(11) In this section, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”

16 (1) Section 36Y (the General Dental Council’s power to require disclosure of information: professions complementary to dentistry) is amended as follows.

(2) In subsection (3), after “enactment” insert “or relevant provision of the GDPR”.

(3) For subsection (4) substitute –

“(4) For the purposes of subsection (3) –

“relevant enactment” means any enactment other than –

(a) this Act, or

(b) the listed provisions in paragraph 1 of Schedule 11 to the Data Protection Act 2017 (exemptions to Part 4: disclosures required by law);

“relevant provision of the GDPR” means any provision of the GDPR apart from the listed GDPR provisions in paragraph 1 of Schedule 2 to the Data Protection Act 2017 (GDPR provisions to be adapted or restricted: disclosures required by law).”

(4) After subsection (10) insert –

“(11) In this section, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”

Access to Medical Reports Act 1988 (c. 28)

Schedule 18 - continued

- 17 In section 2(1) of the Access to Medical Reports Act 1988 (interpretation), for the definition of “health professional” substitute—
 ““health professional” has the same meaning as in the Data Protection Act 2017 (see section 183 of that Act);”.

Opticians Act 1989 (c. 44)

- 18 (1) Section 13B of the Opticians Act 1989 (the Council’s power to require disclosure of information) is amended as follows.
- (2) In subsection (3), after “enactment” insert “or the GDPR”.
- (3) For subsection (4) substitute—
 “(4) In determining for the purposes of subsection (3) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2017 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.”
- (4) After subsection (9) insert—
 “(10) In this section, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”

Human Fertilisation and Embryology Act 1990 (c. 37)

- 19 (1) Section 33D of the Human Fertilisation and Embryology Act 1990 (disclosure for the purposes of medical or other research) is amended as follows.
- (2) In subsection (6), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In subsection (9), at the appropriate place insert—
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52)

- 20 (1) Section 251B of the Trade Union and Labour Relations (Consolidation) Act 1992 (prohibition on disclosure of information) is amended as follows.
- (2) In subsection (3), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After subsection (6) insert—
 “(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Tribunals and Inquiries Act 1992 (c. 53)

- 21 In the table in Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals to which the Act applies), in the second column, in paragraph 14(a), for “section 6 of the Data Protection Act 1998” substitute “section 112 of the Data Protection Act 2017”.

Health Service Commissioners Act 1993 (c. 46)

- 22 In section 18A(1) of the Health Service Commissioners Act 1993 (power to disclose information)—
 (a) in paragraph (a), for sub-paragraph (i) substitute—

Schedule 18 - continued

- “(i) sections 137 to 147 , 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement),”, and
- (b) for paragraph (b) substitute—
- “(b) the commission of an offence under—
- (i) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or
- (ii) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

Data Protection Act 1998 (c. 29)

23 The Data Protection Act 1998 is repealed.

Crime and Disorder Act 1998 (c. 37)

24 In section 17A(4) of the Crime and Disorder Act 1998 (sharing of information), for “(within the meaning of the Data Protection Act 1998)” substitute “(within the meaning of Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act))”.

Food Standards Act 1999 (c. 28)

- 25 (1) Section 19 of the Food Standards Act 1999 (publication etc by the Food Standards Agency of advice and information) is amended as follows.
- (2) In subsection (2), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In subsection (8), after “section” insert “—
“the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Immigration and Asylum Act 1999 (c. 33)

- 26 (1) Section 13 of the Immigration and Asylum Act 1999 (proof of identity of persons to be removed or deported) is amended as follows.
- (2) For subsection (4) substitute—
- “(4) For the purposes of Article 49(1)(d) of the GDPR, the provision under this section of identification data is a transfer of personal data which is necessary for important reasons of public interest.”
- (3) After subsection (4) insert—
- “(4A) “The GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”

Financial Services and Markets Act 2000 (c. 8)

27 The Financial Services and Markets Act 2000 is amended as follows.

- 28 In section 86(9) (exempt offers to the public), for “the Data Protection Act 1998 or any directly applicable EU legislation relating to data protection” substitute “—
- (a) the data protection legislation, or

Schedule 18 - continued

- (b) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection”.
- 29 In section 391A(6)(b) (publication: special provisions relating to the capital requirements directive), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 30 In section 391C(7)(a) (publication: special provisions relating to the UCITS directive), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 31 In section 391D(9)(a) (publication: special provisions relating to the markets in financial instruments directive), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 32 In section 417 (definitions), at the appropriate place insert—
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Terrorism Act 2000 (c. 11)

- 33 In section 21F(2)(d) of the Terrorism Act 2000 (other permitted disclosures between institutions etc) for “(within the meaning of section 1 of the Data Protection Act 1998)” substitute “(within the meaning of Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act))”.

Freedom of Information Act 2000 (c. 36)

- 34 The Freedom of Information Act 2000 is amended as follows.
- 35 In section 2(3) (absolute exemptions), for paragraph (f) substitute—
 “(f) section 40(1),
 (fa) section 40(2) so far as relating to cases where the first condition referred to in that subsection is satisfied.”.
- 36 In section 18 (the Information Commissioner) omit subsection (1).
- 37 (1) Section 40 (personal information) is amended as follows.
- (2) In subsection (2)—
 (a) in paragraph (a), for “do” substitute “does”, and
 (b) in paragraph (b), for “either the first or the second” substitute “the first, second or third”.
- (3) For subsection (3) substitute—
 “(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—
 (a) would contravene any of the data protection principles, or
 (b) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded.
 (3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).”
- (4) For subsection (4) substitute—
 “(4A) The third condition is that—

Schedule 18 - continued

- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 14, 15 or 24 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2017, or
 - (b) on a request under section 43(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”
- (5) For subsection (5) substitute—
- “(5A) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).
- (5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—
- (a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—
 - (i) would (apart from this Act) contravene any of the data protection principles, or
 - (ii) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded;
 - (b) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene Article 21 of the GDPR (general processing: right to object to processing);
 - (c) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in subsection (4A)(a);
 - (d) on a request under section 43(1)(a) of the Data Protection Act 2017 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”
- (6) Omit subsection (6).
- (7) For subsection (7) substitute—
- “(7) In this section—
- “the data protection principles” means the principles set out in—
 - (a) Article 5(1) of the GDPR, and
 - (b) section 32(1) of the Data Protection Act 2017;
 - “data subject” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);
 - “the GDPR”, “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2), (4), (10), (11) and (14) of that Act).

Schedule 18 - continued

- (8) In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”
- 38 Omit section 49 (reports to be laid before Parliament).
- 39 For section 61 (appeal proceedings) substitute –
- “61 Appeal proceedings**
- (1) Tribunal Procedure Rules may make provision for regulating the exercise of rights of appeal conferred by sections 57(1) and (2) and 60(1) and (4).
- (2) In relation to appeals under those provisions, Tribunal Procedure Rules may make provision about –
- (a) securing the production of material used for the processing of personal data, and
 - (b) the inspection, examination, operation and testing of equipment or material used in connection with the processing of personal data.
- (3) Subsection (4) applies where –
- (a) a person does something, or fails to do something, in relation to proceedings before the First-tier Tribunal on an appeal under those provisions, and
 - (b) if those proceedings were proceedings before a court having power to commit for contempt, the act or omission would constitute contempt of court.
- (4) The First-tier Tribunal may certify the offence to the Upper Tribunal.
- (5) Where an offence is certified under subsection (4), the Upper Tribunal may –
- (a) inquire into the matter, and
 - (b) deal with the person charged with the offence in any manner in which it could deal with the person if the offence had been committed in relation to the Upper Tribunal.
- (6) Before exercising the power under subsection (5)(b), the Upper Tribunal must –
- (a) hear any witness who may be produced against or on behalf of the person charged with the offence, and
 - (b) hear any statement that may be offered in defence.
- (7) In this section, “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2), (4) and (14) of that Act).”
- 40 In section 76(1) (disclosure of information between Commissioner and ombudsmen), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 41 After section 76A insert –
- “76B Disclosure of information to Commissioner or Tribunal**

Schedule 18 - continued

No enactment or rule of law prohibiting or restricting the disclosure of information precludes a person from providing the Commissioner, the First-tier Tribunal or the Upper Tribunal with information necessary for the discharge of their functions under this Act.

76C Confidentiality of information provided to Commissioner

- (1) A person who is or has been the Commissioner, or a member of the Commissioner's staff or an agent of the Commissioner, must not disclose information which—
 - (a) has been obtained by, or provided to, the Commissioner under or for the purposes of this Act,
 - (b) relates to an identified or identifiable individual or business, and
 - (c) is not available to the public from other sources at the time of the disclosure and has not previously been available to the public from other sources,
 unless the disclosure is made with lawful authority.
- (2) For the purposes of subsection (1), a disclosure is made with lawful authority only if and to the extent that—
 - (a) the disclosure was made with the consent of the individual or of the person for the time being carrying on the business,
 - (b) the information was provided for the purpose of its being made available to the public (in whatever manner) under a provision of this Act or the data protection legislation,
 - (c) the disclosure was made for the purposes of, and is necessary for, the discharge of a function under this Act or the data protection legislation,
 - (d) the disclosure was made for the purposes of, and is necessary for, the discharge of an EU obligation,
 - (e) the disclosure was made for the purposes of criminal or civil proceedings, however arising, or
 - (f) having regard to the rights, freedoms and legitimate interests of any person, the disclosure was necessary in the public interest.
- (3) It is an offence for a person knowingly or recklessly to disclose information in contravention of subsection (1).
- (4) A person guilty of an offence under this section is liable—
 - (a) on summary conviction in England and Wales, to a fine;
 - (b) on summary conviction in Scotland or Northern Ireland, to a fine not exceeding the statutory maximum;
 - (c) on conviction on indictment, to a fine.
- (5) No proceedings for an offence under this section may be instituted—
 - (a) in England and Wales, except by the Commissioner or by or with the consent of the Director of Public Prosecutions;
 - (b) in Northern Ireland, except by the Commissioner or by or with the consent of the Director of Public Prosecutions for Northern Ireland."

42 In section 77(1)(b) (offence of altering etc records with intent to prevent disclosure), omit "or section 7 of the Data Protection Act 1998,".

43 In section 84 (interpretation), at the appropriate place insert—

Schedule 18 - continued

““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Political Parties, Elections and Referendums Act 2000 (c. 41)

44 (1) Paragraph 28 of Schedule 19C to the Political Parties, Elections and Referendums Act 2000 (civil sanctions: disclosure of information) is amended as follows.

(2) In sub-paragraph (4)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After sub-paragraph (5) insert—

“(6) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Public Finance and Accountability (Scotland) Act 2000 (asp 1)

45 The Public Finance and Accountability (Scotland) Act 2000 is amended as follows.

46 In section 26B(3)(a) (voluntary disclosure of data to Audit Scotland), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

47 In section 26C(3)(a) (power to require disclosure of data), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

48 In section 29(1) (interpretation), at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Criminal Justice and Police Act 2001 (c. 16)

49 The Criminal Justice and Police Act 2001 is amended as follows.

50 In section 57(1) (retention of seized items)—

(a) omit paragraph (m), and

(b) after paragraph (s) insert—

“(t) paragraph 10 of Schedule 15 to the Data Protection Act 2017;”.

51 In section 65(7) (meaning of “legal privilege”)—

(a) for “paragraph 1 of Schedule 9 to the Data Protection Act 1998 (c. 29)” substitute “paragraphs 1 and 2 of Schedule 15 to the Data Protection Act 2017”, and

(b) for “paragraph 9” substitute “paragraph 11 (matters exempt from inspection and seizure: privileged communications)”.

52 In Schedule 1 (powers of seizure)—

(a) omit paragraph 65, and

(b) after paragraph 73R insert—

“Data Protection Act 2017

73S The power of seizure conferred by paragraphs 1 and 2 of Schedule 15 to the Data Protection Act 2017 (powers of entry and inspection).”

Anti-terrorism, Crime and Security Act 2001 (c.24)

53 The Anti-terrorism, Crime and Security Act 2001 is amended as follows.

Schedule 18 - continued

- 54 (1) Section 19 (disclosure of information held by revenue departments) is amended as follows.
- (2) In subsection (7), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) In subsection (9), after “section” insert “—
“the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

- 55 (1) Part 1 of Schedule 4 (extension of existing disclosure powers) is amended as follows.
- (2) Omit paragraph 42.
- (3) After paragraph 52 insert—
“52A Section 76C(1) of the Freedom of Information Act 2000.”
- (4) After paragraph 53F insert—
“53G Section 127(1) of the Data Protection Act 2017.”

Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3 (N.I.))

- 56 (1) Section 7A of the Health and Personal Social Services Act (Northern Ireland) 2001 (power to obtain information etc) is amended as follows.
- (2) In subsection (3), after “provision” insert “or the GDPR”.
- (3) For subsection (5) substitute—
“(5) In determining for the purposes of subsection (3) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2017 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.”
- (4) After subsection (7) insert—
“(8) In this section, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”

Justice (Northern Ireland) Act 2002 (c. 26)

- 57 (1) Section 5A of the Justice (Northern Ireland) Act 2002 (disclosure of information to the Commission) is amended as follows.
- (2) In subsection (3)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After subsection (9) insert—
“(10) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Proceeds of Crime Act 2002 (c. 29)

- 58 The Proceeds of Crime Act 2002 is amended as follows.
- 59 In section 333C(2)(d) (other permitted disclosures between institutions etc), for “(within the meaning of section 1 of the Data Protection Act 1998)” substitute “(within the meaning of Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act))”.

Schedule 18 - continued

- 60 In section 436(3)(a) (disclosure of information to certain Directors), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- 61 In section 438(8)(a) (disclosure of information by certain Directors), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- 62 In section 439(3)(a) (disclosure of information to Lord Advocate and to Scottish Ministers), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- 63 In section 441(7)(a) (disclosure of information by Lord Advocate and Scottish Ministers), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- 64 After section 442 insert –

“442A Data protection legislation

In this Part, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Scottish Public Services Ombudsman Act 2002 (asp 11)

- 65 (1) In Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (disclosure of information by the Ombudsman), the entry for the Information Commissioner is amended as follows.
- (2) In paragraph 1, for sub-paragraph (a) substitute –
 “(a) sections 137 to 147, 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement),”.
- (3) For paragraph 2 substitute –
 “2 The commission of an offence under –
 (a) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc), or
 (b) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

Freedom of Information (Scotland) Act 2002 (asp 13)

- 66 The Freedom of Information (Scotland) Act 2002 is amended as follows.
- 67 In section 2(2)(e)(ii) (absolute exemptions), omit “by virtue of subsection (2)(a)(i) or (b) of that section”.
- 68 (1) Section 38 (personal information) is amended as follows.
- (2) In subsection (1), for paragraph (b) substitute –
 “(b) personal data and the first, second or third condition is satisfied (see subsections (2A) to (3A));”.
- (3) For subsection (2) substitute –
 “(2A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act –
 (a) would contravene any of the data protection principles, or

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- (b) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded.
- (2B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).”
- (4) For subsection (3) substitute –
- “(3A) The third condition is that –
- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 14, 15 or 24 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2017, or
- (b) on a request under section 43(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”
- (5) Omit subsection (4).
- (6) In subsection (5), for the definitions of “the data protection principles” and of “data subject” and “personal data” substitute –
- ““the data protection principles” means the principles set out in –
- (a) Article 5(1) of the GDPR, and
- (b) section 32(1) of the Data Protection Act 2017;
- “data subject” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);
- “the GDPR”, “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2), (4), (10), (11) and (14) of that Act);”.
- (7) After that subsection insert –
- “(5A) In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

Courts Act 2003 (c. 39)

69 Schedule 5 to the Courts Act 2003 (collection of fines) is amended as follows.

- 70 (1) Paragraph 9C (disclosure of information in connection with making of attachment of earnings orders or applications for benefit deductions: supplementary) is amended as follows.
- (2) In sub-paragraph (5), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After sub-paragraph (5) insert –
- “(6) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

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- 71 (1) Paragraph 10A (attachment of earnings orders (Justice Act (Northern Ireland) 2016): disclosure of information) is amended as follows.
- (2) In sub-paragraph (7), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In sub-paragraph (8), at the appropriate place insert—
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Sexual Offences Act 2003 (c. 42)

- 72 (1) Section 94 of the Sexual Offences Act 2003 (Part 2: supply of information to the Secretary of State etc for verification) is amended as follows.
- (2) In subsection (6), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) In subsection (8), at the appropriate place insert—
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Criminal Justice Act 2003 (c. 44)

- 73 The Criminal Justice Act 2003 is amended as follows.
- 74 In section 327A(9) (disclosure of information about convictions etc of child sex offenders to members of the public), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 75 In section 327B (disclosure of information about convictions etc of child sex offenders to members of the public: interpretation), after subsection (4) insert—
 “(4A) “The data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Public Audit (Wales) Act 2004 (c. 23)

- 76 (1) Section 64C of the Public Audit (Wales) Act 2004 (voluntary provision of data) is amended as follows.
- (2) In subsection (3)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) In subsection (5), at the beginning insert “In this section—
 “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Domestic Violence, Crime and Victims Act 2004 (c. 28)

- 77 (1) Section 54 of the Domestic Violence, Crime and Victims Act 2004 (disclosure of information) is amended as follows.
- (2) In subsection (7), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) After subsection (8) insert—
 “(9) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Children Act 2004 (c. 31)

- 78 The Children Act 2004 is amended as follows.

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- 79 (1) Section 12 (information databases) is amended as follows.
- (2) In subsection (13)(e) for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) After subsection (13) insert –
 - “(14) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 80 (1) Section 29 (information databases: Wales) is amended as follows.
- (2) In subsection (14)(e) for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) After subsection (14) insert –
 - “(15) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Constitutional Reform Act 2005 (c. 4)

- 81 (1) Section 107 of the Constitutional Reform Act 2005 (disclosure of information to the Commission) is amended as follows.
- (2) In subsection (3)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) After subsection (9) insert –
 - “(10) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Mental Capacity Act 2005 (c. 9)

- 82 In section 64 of the Mental Capacity Act 2005 (interpretation), for the definition of “health record” substitute –
 - ““health record” has the same meaning as in the Data Protection Act 2017 (see section 184 of that Act);”.

Public Services Ombudsman (Wales) Act 2005 (c. 10)

- 83 (1) Section 34X of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information) is amended as follows.
- (2) In subsection (4), for paragraph (a) substitute –
 - “(a) sections 137 to 147, 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement);”.
 - (3) For subsection (5) substitute –
 - “(5) The offences are those under –
 - (a) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc);
 - (b) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

Commissioners for Revenue and Customs Act 2005 (c. 11)

- 84 (1) Section 22 of the Commissioners for Revenue and Customs Act 2005 (data protection, etc) is amended as follows.

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- (2) The existing text becomes subsection (1).
- (3) In that subsection, in paragraph (a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (4) After that subsection insert –
 - “(2) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Gambling Act 2005 (c. 19)

- 85 (1) Section 352 of the Gambling Act 2005 (data protection) is amended as follows.
- (2) The existing text becomes subsection (1).
 - (3) In that subsection, for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (4) After that subsection insert –
 - “(2) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Commissioner for Older People (Wales) Act 2006 (c. 30)

- 86 (1) Section 18 of the Commissioner for Older People (Wales) Act 2006 (power to disclose information) is amended as follows.
- (2) In subsection (7), for paragraph (a) substitute –
 - “(a) sections 137 to 147, 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement);”.
 - (3) For subsection (8) substitute –
 - “(8) The offences are those under –
 - (a) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc); or
 - (b) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

National Health Service Act 2006 (c. 41)

- 87 The National Health Service Act 2006 is amended as follows.
- 88 (1) Section 251 (control of patient information) is amended as follows.
- (2) In subsection (7), for “made by or under the Data Protection Act 1998 (c 29)” substitute “of the data protection legislation”.
 - (3) In subsection (13), at the appropriate place insert –
 - ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.
- 89 In paragraph 7B(3) of Schedule 1 (further provision about the Secretary of State and services under the Act), for “has the same meaning as in the Data Protection Act 1998” substitute “has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act)”.

National Health Service (Wales) Act 2006 (c. 42)

- 90 The National Health Service (Wales) Act 2006 is amended as follows.

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- 91 (1) Section 201C (provision of information about medical supplies: supplementary) is amended as follows.
- (2) In subsection (2), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After subsection (3) insert –
- “(4) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 92 In paragraph 7B(3) of Schedule 1 (further provision about the Welsh Ministers and services under the Act), for “has the same meaning as in the Data Protection Act 1998” substitute “has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act)”.

Tribunals, Courts and Enforcement Act 2007 (c. 15)

- 93 The Tribunals, Courts and Enforcement Act 2007 is amended as follows.
- 94 In section 11(5)(b)(right to appeal to Upper Tribunal), for “section 28(4) or (6) of the Data Protection Act 1998 (c. 29)” substitute “section 25(3) or (5), 77(5) or (7) or 109(3) or (5) of the Data Protection Act 2017”.
- 95 In section 13(8)(a) (right to appeal to the Court of Appeal), for “section 28(4) or (6) of the Data Protection Act 1998 (c. 29)” substitute “section 25(3) or (5), 77(5) or (7) or 109(3) or (5) of the Data Protection Act 2017”.

Statistics and Registration Service Act 2007 (c. 18)

- 96 The Statistics and Registration Service Act 2007 is amended as follows.
- 97 (1) Section 45A (information held by other public authorities) is amended as follows.
- (2) In subsection (8), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017”.
- (3) In subsection (9), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (4) In subsection (12)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (5) In subsection (12)(c), after the first “legislation” insert “(which is not part of the data protection legislation)”.
- 98 (1) Section 45B(3) (access to information held by Crown bodies etc) is amended as follows.
- (2) In paragraph (a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In paragraph (c), after the first “legislation” insert “(which is not part of the data protection legislation)”.
- 99 (1) Section 45C(13) (power to require disclosures by other public authorities) is amended as follows.
- (2) In paragraph (b), for “the Data Protection Act 1998” substitute “the data protection legislation”.

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- (3) In paragraph (d), after the first “legislation” insert “(which is not part of the data protection legislation)”.
- 100 In section 45D(9)(b) (power to require disclosure by undertakings), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 101(1) Section 45E (further provision about powers in sections 45B, 45C and 45D) is amended as follows.
- (2) In subsection (6), for “section 52B (data-sharing code) of the Data Protection Act 1998” substitute “section 119 of the Data Protection Act 2017 (data-sharing code)”.
- (3) In subsection (16), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017”.
- (4) In subsection (17), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 102(1) Section 53A (disclosure by the Statistics Board to devolved administrations) is amended as follows.
- (2) In subsection (9), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017”.
- (3) In subsection (10), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (4) In subsection (12)(b), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 103(1) Section 54 (Data Protection Act 1998 and Human Rights Act 1998) is amended as follows.
- (2) In the heading omit “Data Protection Act 1998 and”.
- (3) Omit paragraph (a) (together with the final “or”).
- 104 In section 67 (general interpretation: Part 1), at the appropriate place insert –
““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.
- Serious Crime Act 2007 (c. 27)*
- 105 The Serious Crime Act 2007 is amended as follows.
- 106(1) Section 5A (verification and disclosure of information) is amended as follows.
- (2) In subsection (6) –
- (a) for “the Data Protection Act 1998” substitute “the data protection legislation”, and
- (b) for “are” substitute “is”.
- (3) After subsection (6) insert –
- “(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 107(1) Section 68 (disclosure of information to prevent fraud) is amended as follows.
- (2) In subsection (4)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

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- (3) In subsection (8), at the appropriate place insert –
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 108(1) Section 85 (disclosure of information by Revenue and Customs) is amended as follows.
- (2) In subsection (8)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) In subsection (9), at the appropriate place insert –
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Legal Services Act 2007 (c. 29)

- 109(1) Section 169 of the Legal Services Act 2007 (disclosure of information to the Legal Services Board) is amended as follows.
- (2) In subsection (3)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) After subsection (8) insert –
 “(9) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Adoption and Children (Scotland) Act 2007 (asp 4)

- 110 In section 74 of the Adoption and Children (Scotland) Act 2007 (disclosure of medical information about parents), for subsection (5) substitute –
 “(5) In subsection (4)(e), “processing” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act).”

Criminal Justice and Immigration Act 2008 (c. 4)

- 111 The Criminal Justice and Immigration Act 2008 is amended as follows.
- 112 Omit –
- (a) section 77 (power to alter penalty for unlawfully obtaining etc personal data), and
- (b) section 78 (new defence for obtaining etc for journalism and other special purposes).

- 113(1) Section 114 (supply of information to Secretary of State etc) is amended as follows.
- (2) In subsection (5), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) After subsection (6) insert –
 “(6A) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Regulatory Enforcement and Sanctions Act 2008 (c. 13)

- 114(1) Section 70 of the Regulatory Enforcement and Sanctions Act 2008 (disclosure of information) is amended as follows.
- (2) In subsection (4)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

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- (3) After subsection (5) insert—

“(6) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Health and Social Care Act 2008 (c. 14)

- 115 In section 20A(5) of the Health and Social Care Act 2008 (functions relating to processing of information by registered persons), in the definition of “processing”, for “the Data Protection Act 1998” substitute “Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act);”.

Counter-Terrorism Act 2008 (c. 28)

- 116(1) Section 20 of the Counter-Terrorism Act 2008 (disclosure and the intelligence services: supplementary provisions) is amended as follows.

- (2) In subsection (2)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

- (3) After subsection (4) insert—

“(5) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Public Health etc.(Scotland) Act 2008 (asp 5)

- 117(1) Section 117 of the Public Health etc. (Scotland) Act 2008 (disclosure of information) is amended as follows.

- (2) In subsection (6), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

- (3) After subsection (7) insert—

“(7A) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Banking Act 2009 (c. 1)

- 118(1) Section 83ZY of the Banking Act 2009 (special resolution regime: publication of notices etc) is amended as follows.

- (2) In subsection (10), for “the Data Protection Act 1998” substitute “the data protection legislation”.

- (3) In subsection (11), after “section” insert “—

“the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Borders, Citizenship and Immigration Act 2009 (c. 11)

- 119(1) Section 19 of the Borders, Citizenship and Immigration Act 2009 (use and disclosure of customs information: application of statutory provisions) is amended as follows.

- (2) In subsection (1)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

- (3) After subsection (4) insert—

“(5) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Marine and Coastal Access Act 2009 (c. 23)

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- 120 The Marine and Coastal Access Act 2009 is amended as follows.
- 121(1) Paragraph 13 of Schedule 7 (further provision about civil sanctions under Part 4: disclosure of information) is amended as follows.
- (2) In sub-paragraph (5)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) After sub-paragraph (6) insert—
 - “(7) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 122(1) Paragraph 9 of Schedule 10 (further provision about fixed monetary penalties: disclosure of information) is amended as follows.
- (2) In sub-paragraph (5)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) After sub-paragraph (6) insert—
 - “(7) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Broads Authority Act 2009 (c. i)

- 123(1) Section 38 of the Broads Authority Act 2009 (provision of information) is amended as follows.
- (2) In subsection (3), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) In subsection (6), after “section” insert “—
“the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1 (N.I.))

- 124(1) Section 13 of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (functions of the Regional Agency) is amended as follows.
- (2) In subsection (8), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
 - (3) After subsection (8) insert—
 - “(9) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Terrorist Asset-Freezing etc. Act 2010 (c. 38)

- 125(1) Section 25 of the Terrorist Asset-Freezing etc. Act 2010 (application of provisions) is amended as follows.
- (2) In subsection (2)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) In subsection (6), at the appropriate place insert—
 - ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Marine (Scotland) Act 2010 (asp 5)

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126(1) Paragraph 12 of Schedule 2 to the Marine (Scotland) Act 2010 (further provision about civil sanctions under Part 4: disclosure of information) is amended as follows.

- (2) In sub-paragraph (5)(a), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) After sub-paragraph (6) insert –
 - “(7) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Charities Act 2011 (c. 25)

127(1) Section 59 of the Charities Act 2011 (disclosure: supplementary) is amended as follows.

- (2) The existing text becomes subsection (1).
- (3) In that subsection, in paragraph (a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (4) After that subsection insert –
 - “(2) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Welsh Language (Wales) Measure 2011 (nawm 1)

128 The Welsh Language (Wales) Measure 2011 is amended as follows.

129(1) Section 22 (power to disclose information) is amended as follows.

- (2) In subsection (4) –
 - (a) in the English language text, for paragraph (a) substitute –
 - “(a) sections 137 to 147 , 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement);”, and
 - (b) in the Welsh language text, for paragraph (a) substitute –
 - “(a) adrannau 137 i 147, 153 i 155, neu 164 i 166 o Ddeddf Diogelu Data 2017 neu Atodlen 15 i'r Ddeddf honno (darpariaethau penodol yn ymwneud â gorfodi);”.
- (3) For subsection (5) –
 - (a) in the English language text substitute –
 - “(5) The offences referred to under subsection (3)(b) are those under –
 - (a) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of exercise of warrant etc); or
 - (b) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”, and
 - (b) in the Welsh language text substitute –
 - “(5) Y tramgwyddau y cyfeirir atynt yn is-adran (3)(b) yw'r rhai –
 - (a) o dan ddarpariaeth yn Neddf Diogelu Data 2017 ac eithrio paragraff 15 o Atodlen 15 (rhwystro gweithredu gwarant etc); neu

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- (b) o dan adran 76C neu 77 o Ddeddf Rhyddid Gwybodaeth 2000 (troseddau o ddatgelu gwybodaeth ac altro etc cofnodion gyda'r bwriad o atal datgelu)."
- (4) In subsection (8)–
- (a) in the English language text, for “the Data Protection Act 1998” substitute “the data protection legislation”, and
 - (b) in the Welsh language text, for “gymhwysu Deddf Diogelu Data 1998” substitute “gymhwysu'r ddeddfwriaeth diogelu data”.
- (5) In subsection (9)–
- (a) at the appropriate place in the English language text insert –
““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”, and
 - (b) at the appropriate place in the Welsh language text insert –
“mae i “y ddeddfwriaeth diogelu data” yr un ystyr ag a roddir i “the data protection legislation” yn Neddf Diogelu Data 2017 (gweler adran 2 o'r Ddeddf honno);”.
- 130(1) Paragraph 8 of Schedule 2 (inquiries by the Commissioner: reports) is amended as follows.
- (2) In sub-paragraph (7)–
- (a) in the English language text, for “the Data Protection Act 1998” substitute “the data protection legislation”, and
 - (b) in the Welsh language text, for “gymhwysu Deddf Diogelu Data 1998” substitute “gymhwysu'r ddeddfwriaeth diogelu data”.
- (3) In sub-paragraph (8)–
- (a) in the English language text, after “paragraph” insert “–
“the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”, and
 - (b) in the Welsh language text, after “hwn” insert –
“mae i “y ddeddfwriaeth diogelu data” yr un ystyr ag a roddir i “the data protection legislation” yn Neddf Diogelu Data 2017 (gweler adran 2 o'r Ddeddf honno);”.

Safeguarding Board Act (Northern Ireland) 2011 (c. 7 (N.I))

- 131(1) Section 10 of the Safeguarding Board Act (Northern Ireland) 2011 (duty to co-operate) is amended as follows.
- (2) In subsection (3), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.
- (3) After subsection (3) insert –
- “(4) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Health and Social Care Act 2012 (c. 7)

- 132 The Health and Social Care Act 2012 is amended as follows.

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- 133 In section 250(7) (power to publish information standards), for the definition of “processing” substitute—
 ““processing” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act);”.
- 134(1) Section 251A (consistent identifiers) is amended as follows.
- (2) In subsection (7)(a), for “made by or under the Data Protection Act 1998” substitute “of the data protection legislation”.
- (3) After subsection (8) insert—
 “(9) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 135(1) Section 251B (duty to share information) is amended as follows.
- (2) In subsection (5)(a), for “made by or under the Data Protection Act 1998” substitute “of the data protection legislation”.
- (3) After subsection (6) insert—
 “(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Protection of Freedoms Act 2012 (c. 9)

- 136 The Protection of Freedoms Act 2012 is amended as follows.
- 137(1) Section 27 (exceptions and further provision about consent and notification) is amended as follows.
- (2) In subsection (5), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After subsection (5) insert—
 “(6) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 138 In section 28(1) (interpretation: Chapter 2), for the definition of “processing” substitute—

““processing has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act);”.

- 139 In section 29(7) (code of practice for surveillance camera systems), for the definition of “processing” substitute—
 ““processing has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(4) and (14) of that Act);”.

HGV Road User Levy Act 2013 (c. 7)

- 140(1) Section 14A of the HGV Road User Levy Act 2013 (disclosure of information by Revenue and Customs) is amended as follows.
- (2) In subsection (5), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After subsection (5) insert—
 “(6) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Crime and Courts Act 2013 (c. 22)

Schedule 18 - continued

- 141 The Crime and Courts Act 2013 is amended as follows.
- 142(1) Section 42 (other interpretive provisions) is amended as follows.
- (2) In subsection (5)(a), for “section 13 of the Data Protection Act 1998 (damage or distress suffered as a result of a contravention of a requirement of that Act)” substitute “Article 82 of the GDPR or section 159 or 160 of the Data Protection Act 2017 (compensation for contravention of the data protection legislation)”.
 - (3) After subsection (5) insert –
“(5A) In subsection (5)(a), “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”
- 143(1) Paragraph 1 of Schedule 7 (statutory restrictions on disclosure) is amended as follows.
- (2) The existing text becomes sub-paragraph (1).
 - (3) In that sub-paragraph, in paragraph (a) –
 - (a) for “the Data Protection Act 1998” substitute “the data protection legislation”, and
 - (b) for “are” substitute “is”.
 - (4) After that sub-paragraph, insert –
“(2) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Marine Act (Northern Ireland) 2013 (c. 10 (N.I.))

- 144(1) Paragraph 8 of Schedule 2 to the Marine Act (Northern Ireland) 2013 (further provision about fixed monetary penalties under section 35: disclosure of information) is amended as follows.
- (2) In sub-paragraph (5)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After sub-paragraph (6) insert –
“(7) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Local Audit and Accountability Act 2014 (c. 2)

- 145(1) Paragraph 3 of Schedule 9 to the Local Audit and Accountability Act 2014 (data matching: voluntary provision of data) is amended as follows.
- (2) In sub-paragraph (3)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After sub-paragraph (3) insert –
“(3A) “The data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
 - (4) In sub-paragraph (4), for “comprise or include” substitute “comprises or includes”.

Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)

- 146(1) Paragraph 7 of Schedule 4 to the Anti-social Behaviour, Crime and Policing Act 2014 (anti-social behaviour case reviews: information) is amended as follows.

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- (2) In sub-paragraph (4)–
 - (a) for “the Data Protection Act 1998” substitute “the data protection legislation”, and
 - (b) for “are” substitute “is”.
- (3) After sub-paragraph (5) insert–
 - “(6) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Immigration Act 2014 (c. 22)

- 147(1) Paragraph 6 of Schedule 6 to the Immigration Act 2014 (information: limitation on powers) is amended as follows.
- (2) The existing text becomes sub-paragraph (1).
 - (3) In that sub-paragraph, in paragraph (a)–
 - (a) for “the Data Protection Act 1998” substitute “the data protection legislation”, and
 - (b) for “are” substitute “is”.
 - (4) After that sub-paragraph insert–
 - “(2) In this paragraph, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Care Act 2014 (c. 23)

- 148 In section 67(9) of the Care Act 2014 (involvement in assessment, plans etc), for paragraph (a) substitute–
 - “(a) a health record (within the meaning given in section 184 of the Data Protection Act 2017),”.

Social Services and Well-being (Wales) Act 2014 (anaw 4)

- 149 In section 18(10)(b) of the Social Services and Well-being (Wales) Act 2014 (registers of sight-impaired, hearing-impaired and other disabled people)–
 - (a) in the English language text, for “(within the meaning of the Data Protection Act 1998)” substitute “(within the meaning of Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act))”, and
 - (b) in the Welsh language text, for “(o fewn ystyr “personal data” yn Neddf Diogelu Data 1998)” substitute “(o fewn ystyr “personal data” yn Rhan 5 i 7 o Ddeddf Diogelu Data 2017 (gweler adran 2(2) a (14) o’r Ddeddf honno))”.

Counter-Terrorism and Security Act 2015 (c. 6)

- 150(1) Section 38 of the Counter-Terrorism and Security Act 2015 (support etc for people vulnerable to being drawn into terrorism: co-operation) is amended as follows.
- (2) In subsection (4)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After subsection (4) insert–
 - “(4A) “The data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Schedule 18 - continued*Small Business, Enterprise and Employment Act 2015 (c. 26)*

- 151(1) Section 6 of the Small Business, Enterprise and Employment Act 2015 (application of listed provisions to designated credit reference agencies) is amended as follows.
- (2) In subsection (7) –
- (a) for paragraph (b) substitute –
- “(b) Article 15(1) to (3) of the GDPR (confirmation of processing, access to data and safeguards for third country transfers);” and
- (b) omit paragraph (c).
- (3) After subsection (7) insert –
- “(7A) In subsection (7) “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act).”

Modern Slavery Act 2015 (c. 30)

- 152(1) Section 54A of the Modern Slavery Act 2015 (Gangmasters and Labour Abuse Authority: information gateways) is amended as follows.
- (2) In subsection (5)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In subsection (9), after “section” insert “–
- “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (c. 2 (N.I.))

- 153 The Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 is amended as follows.
- 154 In section 13(5) (duty to notify National Crime Agency about suspected victims of certain offences) for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 155 In section 25(1) (interpretation of this Act), at the appropriate place insert –
- ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.
- 156 In paragraph 18(5) of Schedule 3 (supply of information to relevant Northern Ireland departments, Secretary of State, etc) for “the Data Protection Act 1998” substitute “the data protection legislation”.

Justice Act (Northern Ireland) 2015 (c. 9 (N.I.))

- 157(1) Section 72 of the Justice Act (Northern Ireland) 2015 (supply of information to relevant Northern Ireland departments or Secretary of State) is amended as follows.
- (2) In subsection (5), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In subsection (7), at the appropriate place insert –

Schedule 18 - continued

““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Immigration Act 2016 (c. 19)

- 158(1) Section 7 of the Immigration Act 2016 (information gateways: supplementary) is amended as follows.
- (2) In subsection (2)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) In subsection (11), at the appropriate place insert –
 ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

Investigatory Powers Act 2016 (c. 25)

- 159 The Investigatory Powers Act 2016 is amended as follows.
- 160 In section 1(5)(b), for sub-paragraph (ii) substitute –
 “(ii) in section 161 of the Data Protection Act 2017 (unlawful obtaining etc of personal data);”.
- 161 In section 199 (bulk personal datasets: interpretation), for subsection (2) substitute –
 “(2) In this Part, “personal data” means –
 (a) personal data within the meaning of section 2(2) of the Data Protection Act 2017 which is subject to processing described in section 80 (1) of that Act, and
 (b) data relating to a deceased individual where the data would fall within paragraph (a) if it related to a living individual.”
- 162 In section 202(4) (restriction on use of class BPD warrants), in the definition of “sensitive personal data”, for “which is of a kind mentioned in section 2(a) to (f) of the Data Protection Act 1998” substitute “the processing of which would be sensitive processing for the purposes of section 84(7) of the Data Protection Act 2017”.
- 163 In section 206 (additional safeguards for health records), for subsection (7) substitute –
 “(7) In subsection (6) –
 “health professional” has the same meaning as in the Data Protection Act 2017 (see section 183(1) of that Act);
 “health service body” has the meaning given by section 183(4) of that Act.”

- 164(1) Section 237 (information gateway) is amended as follows.
- (2) In subsection (2), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After subsection (2) insert –
 “(3) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.))

- 165(1) Section 49 of the Police Services Ombudsman Act (Northern Ireland) 2016 (disclosure of information) is amended as follows.

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- (2) In subsection (4), for paragraph (a) substitute –
 “(a) sections 137 to 147 , 153 to 155 and 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017 (certain provisions relating to enforcement),”.
- (3) For subsection (5) substitute –
 “(5) The offences are those under –
 (a) any provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc),
 (b) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”
- (4) After subsection (6) insert –
 “(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Health and Social Care (Control of Data Processing) Act (Northern Ireland) 2016 (c. 12 (N.I.))

166(1) Section 1 of the Health and Social Care (Control of Data Processing) Act (Northern Ireland) 2016 (control of information of a relevant person) is amended as follows.

- (2) In subsection (8), for “made by or under the Data Protection Act 1998” substitute “of the data protection legislation”.
- (3) After subsection (12) insert –
 “(12A) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Mental Capacity Act (Northern Ireland) 2016 (c. 18 (N.I.))

167 In section 306(1) of the Mental Capacity Act (Northern Ireland) 2016 (definitions for purposes of Act), for the definition of “health record” substitute –

““health record” has the meaning given by section 184 of the Data Protection Act 2017;”.

Justice Act (Northern Ireland) 2016 (c. 21 (N.I.))

168 The Justice Act (Northern Ireland) 2016 is amended as follows.

169(1) Section 17 (disclosure of information) is amended as follows.

- (2) In subsection (7), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In subsection (8), after “section” insert “–
 “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

170 In section 44(3)(disclosure of information) –

- (a) in paragraph (a), for “Part 5 of the Data Protection Act 1998” substitute “sections 137 to 147 , 153 to 155 or 164 to 166 of, or Schedule 15 to, the Data Protection Act 2017”, and

Schedule 18 - continued

(b) for paragraph (b) substitute—

“(b) the commission of an offence under—

- (i) a provision of the Data Protection Act 2017 other than paragraph 15 of Schedule 15 (obstruction of execution of warrant etc); or
- (ii) sections 76C or 77 of the Freedom of Information Act 2000 (offences of disclosing information and altering etc records with intent to prevent disclosure).”

Policing and Crime Act 2017 (c. 3)

171(1) Section 50 of the Policing and Crime Act 2017 (Freedom of Information Act etc: Police Federation for England and Wales) is amended as follows.

- (2) The existing text becomes subsection (1).
- (3) In that subsection, in paragraph (b), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (4) After that subsection, insert—
 - “(2) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Children and Social Work Act 2017 (c. 12)

172 In Schedule 5 to the Children and Social Work Act 2017—

- (a) in Part 1 (general amendments to do with social workers etc in England) omit paragraph 6, and
- (b) in Part 2 (renaming of Health and Social Work Professions Order 2001) omit paragraph 47(g).

Higher Education and Research Act 2017 (c. 29)

173 The Higher Education and Research Act 2017 is amended as follows.

174(1) Section 63 (cooperation and information sharing by the Office for Students) is amended as follows.

- (2) In subsection (6), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) In subsection (7), at the appropriate place insert—
 - ““the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”.

175(1) Section 112 (cooperation and information sharing between the Office for Students and UKRI) is amended as follows.

- (2) In subsection (6), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) After subsection (6) insert—
 - “(7) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”

Digital Economy Act 2017 (c. 30)

176 The Digital Economy Act 2017 is amended as follows.

Schedule 18 - continued

- 177(1) Section 40 (further provisions about disclosures under sections 35 to 39) is amended as follows.
- (2) In subsection (8)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After subsection (10) insert –
“(11) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 178(1) Section 43 (codes of practice) is amended as follows.
- (2) In subsection (2), for “section 52B (data-sharing code) of the Data Protection Act 1998” substitute “section 119 of the Data Protection Act 2017 (data-sharing code)”.
 - (3) In subsection (13), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017”.
- 179(1) Section 49 (further provision about disclosures under section 48) is amended as follows.
- (2) In subsection (8)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After subsection (10) insert –
“(11) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 180(1) Section 52 (code of practice) is amended as follows.
- (2) In subsection (2), for “section 52B (data-sharing code) of the Data Protection Act 1998” substitute “section 119 of the Data Protection Act 2017 (data-sharing code)”.
 - (3) In subsection (13), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017 (other codes of practice)”.
- 181(1) Section 57 (further provision about disclosures under section 56) is amended as follows.
- (2) In subsection (8)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After subsection (10) insert –
“(11) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 182(1) Section 60 (code of practice) is amended as follows.
- (2) In subsection (2), for “section 52B (data-sharing code) of the Data Protection Act 1998” substitute “section 119 of the Data Protection Act 2017 (data-sharing code)”.
 - (3) In subsection (13), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017 (other codes of practice)”.
- 183(1) Section 65 (supplementary provision about disclosures under section 64) is amended as follows.

Schedule 18 - continued

- (2) In subsection (2)(a), for “the Data Protection Act 1998” substitute “the data protection legislation”.
 - (3) After subsection (8) insert—
 - “(9) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”
- 184(1) Section 70 (code of practice) is amended as follows.
- (2) In subsection (2), for “section 52B (data-sharing code) of the Data Protection Act 1998” substitute “section 119 of the Data Protection Act 2017 (data-sharing code)”.
 - (3) In subsection (15), for “section 51(3) of the Data Protection Act 1998” substitute “section 124 of the Data Protection Act 2017 (other codes of practice)”.
- 185 Omit sections 108 to 110 (charges payable to the Information Commissioner).
- Landfill Disposals Tax (Wales) Act 2017 (anaw 3)*
- 186(1) Section 60 of the Landfill Disposals Tax (Wales) Act 2017 (disclosure of information to the Welsh Revenue Authority) is amended as follows.
- (2) In subsection (4)(a)—
 - (a) in the English language text, for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”, and
 - (b) in the Welsh language text, for “torri Deddf Diogelu Data 1998 (p. 29)” substitute “torri’r ddeddfwriaeth diogelu data”.
 - (3) After subsection (7)—
 - (a) in the English language text insert—
 - “(8) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act).”, and
 - (b) in the Welsh language text insert—
 - “(8) Yn yr adran hon, mae i “y ddeddfwriaeth diogelu data” yr un ystyr ag a roddir i “the data protection legislation” yn Neddf Diogelu Data 2017 (gweler adran 2 o’r Ddeddf honno).”

This Act

- 187(1) Section 183 (meaning of “health professional” and “social work professional”) is amended as follows (to reflect the arrangements for the registration of social workers in England under Part 2 of the Children and Social Work Act 2017).
- (2) In subsection (1)(g)—
 - (a) omit “and Social Work”, and
 - (b) omit “, other than the social work profession in England”.
 - (3) In subsection (2), for paragraph (a) substitute—
 - “(a) a person registered as a social worker in the register maintained by Social Work England under section 39(1) of the Children and Social Work Act 2017;”.

Part 2

SUBORDINATE LEGISLATION

Channel Tunnel (International Arrangements) Order 1993 (S.I. 1993/1813)

Schedule 18 - continued

188(1) Article 4 of the Channel Tunnel (International Arrangements) Order 1993 (application of enactments) is amended as follows.

(2) In paragraph (2) –

- (a) for “section 5 of the Data Protection Act 1998 (“the 1998 Act”), data which are” substitute “section 186 of the Data Protection Act 2017 (“the 2017 Act”), data which is”,
- (b) for “data controller” substitute “controller”, and
- (c) for “and the 1998 Act” substitute “and the 2017 Act”.

(3) In paragraph (3) –

- (a) for “section 5 of the 1998 Act, data which are” substitute “section 186 of the 2017 Act, data which is”,
- (b) for “data controller” substitute “controller”, and
- (c) for “and the 1998 Act” substitute “and the 2017 Act”.

Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 (S.I. 2003/2818)

189 The Nationality, Immigration and Asylum Act 2002 (Juxtaposed Controls) Order 2003 is amended as follows.

190 In Article 8(2) (exercise of powers by French officers in a control zone in the United Kingdom: disapplication of law of England and Wales) –

- (a) for “The Data Protection Act 1998” substitute “The Data Protection Act 2017”, and
- (b) for “are” substitute “is”.

191 In Article 11(4) (exercise of powers by UK immigration officers and constables in a control zone in France: enactments having effect) –

- (a) for “The Data Protection Act 1998” substitute “The Data Protection Act 2017”,
- (b) for “are” substitute “is”, and
- (c) for “section 5” substitute “section 186”.

Environmental Information Regulations 2004 (S.I. 2004/3391)

192 The Environmental Information Regulations 2004 are amended as follows.

193(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1), at the appropriate places, insert –

““the data protection principles” means the principles set out in –

- (a) Article 5(1) of the GDPR,
- (b) section 32(1) of the Data Protection Act 2017, and
- (c) section 83(1) of that Act;”;

““data subject” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”;

““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2 (10), (11) and (14) of that Act);”;

““personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act);”.

Schedule 18 - continued

- (3) For paragraph (4) substitute –
- “(4A) In these Regulations, references to the Data Protection Act 2017 have effect as if in Chapter 3 of Part 2 of that Act (other general processing) –
- (a) the references to an FOI public authority were references to a public authority as defined in these Regulations, and
 - (b) the references to personal data held by such an authority were to be interpreted in accordance with regulation 3(2).”
- 194(1) Regulation 13 (personal data) is amended as follows.
- (2) For paragraph (1) substitute –
- “(1) To the extent that the information requested includes personal data of which the applicant is not the data subject, a public authority must not disclose the personal data if –
- (a) the first condition is satisfied, or
 - (b) the second or third condition is satisfied and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.”
- (3) For paragraph (2) substitute –
- “(2A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations –
- (a) would contravene any of the data protection principles, or
 - (b) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded.
- (2B) The second condition is that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene –
- (a) Article 21 of the GDPR (general processing: right to object to processing), or
 - (b) section 97 of the Data Protection Act 2017 (intelligence services processing: right to object to processing).”
- (4) For paragraph (3) substitute –
- “(3A) The third condition is that –
- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 14, 15 or 24 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2017,
 - (b) on a request under section 43(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section, or
 - (c) on a request under section 92(1)(b) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.”
- (5) Omit paragraph (4).
- (6) For paragraph (5) substitute –

Schedule 18 - continued

- “(5A) For the purposes of this regulation a public authority may respond to a request by neither confirming nor denying whether such information exists and is held by the public authority, whether or not it holds such information, to the extent that—
- (a) the condition in paragraph (5B)(a) is satisfied, or
 - (b) a condition in paragraph (5B)(b) to (e) is satisfied and in all the circumstances of the case, the public interest in not confirming or denying whether the information exists outweighs the public interest in doing so.
- (5B) The conditions mentioned in paragraph (5A) are—
- (a) giving a member of the public the confirmation or denial—
 - (i) would (apart from these Regulations) contravene any of the data protection principles, or
 - (ii) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded;
 - (b) giving a member of the public the confirmation or denial would (apart from these Regulations) contravene Article 21 of the GDPR or section 97 of the Data Protection Act 2017 (right to object to processing);
 - (c) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in paragraph (3A)(a);
 - (d) on a request under section 43(1)(a) of the Data Protection Act 2017 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section;
 - (e) on a request under section 92(1)(a) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.”
- (7) After that paragraph insert—
- “(6) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”
- 195 In regulation 14 (refusal to disclose information), in paragraph (3)(b), for “regulations 13(2)(a)(ii) or 13(3)” substitute “regulation 13(1)(b) or (5A)”.
- 196 In regulation 18 (enforcement and appeal provisions), in paragraph (5), for “regulation 13(5)” substitute “regulation 13(5A)”.
- Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520)*
- 197 The Environmental Information (Scotland) Regulations 2004 are amended as follows.

Schedule 18 - continued

- 198(1) Regulation 2 (interpretation) is amended as follows.
- (2) In paragraph (1), at the appropriate places, insert—
- ““the data protection principles” means the principles set out in—
- (a) Article 5(1) of the GDPR, and
- (b) section 32(1) of the Data Protection Act 2017;”;
- ““data subject” has the same meaning as in the Data Protection Act 2017 (see section 2 of that Act);”;
- ““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act);”;
- ““personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2 (2) and (14) of that Act);”.
- (3) For paragraph (3) substitute—
- “(3A) In these Regulations, references to the Data Protection Act 2017 have effect as if in Chapter 3 of Part 2 of that Act (other general processing)—
- (a) the references to an FOI public authority were references to a Scottish public authority as defined in these Regulations, and
- (b) the references to personal data held by such an authority were to be interpreted in accordance with paragraph (2) of this regulation.”
- 199(1) Regulation 11 (personal data) is amended as follows.
- (2) For paragraph (2) substitute—
- “(2) To the extent that environmental information requested includes personal data of which the applicant is not the data subject, a Scottish public authority must not make the personal data available if—
- (a) the first condition set out in paragraph (3A) is satisfied, or
- (b) the second or third condition set out in paragraph (3B) or (4A) is satisfied and, in all the circumstances of the case, the public interest in making the information available is outweighed by that in not doing so.”
- (3) For paragraph (3) substitute—
- “(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations—
- (a) would contravene any of the data protection principles, or
- (b) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded.
- (3B) The second condition is that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene Article 21 of the GDPR (general processing: right to object to processing).”
- (4) For paragraph (4) substitute—
- “(4A) The third condition is that any of the following applies to the information—

Schedule 18 - continued

- (a) it is exempt from the obligation under Article 15(1) of the GDPR (general processing: right of access by the data subject) to provide access to, and information about, personal data by virtue of provision made by or under section 14 , 15 or 24 of, or Schedule 2 , 3 or 4 to, the Data Protection Act 2017, or
 - (b) on a request under section 43(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.”
- (5) Omit paragraph (5).
- (6) After paragraph (6) insert –
- “(7) In determining, for the purposes of this regulation, whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 (S.I. 2005/2042)

- 200(1) Regulation 45 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 (sensitive information) is amended as follows.
- (2) In paragraph (1)(d) –
- (a) omit “, within the meaning of section 1(1) of the Data Protection Act 1998”, and
 - (b) for “(2) or (3)” substitute “(1A), (1B) or (1C)”.
- (3) After paragraph (1) insert –
- “(1A) The condition in this paragraph is that the disclosure of the information to a member of the public –
- (a) would contravene any of the data protection principles, or
 - (b) would do so if the exemptions in section 22(1) of the Data Protection Act 2017 (manual unstructured data held by public authorities) were disregarded.
- (1B) The condition in this paragraph is that the disclosure of the information to a member of the public would contravene –
- (a) Article 21 of the GDPR (general processing: right to object to processing), or
 - (b) section 97 of the Data Protection Act 2017 (intelligence services processing: right to object to processing).
- (1C) The condition in this paragraph is that –
- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 14 , 15 or 24 of, or Schedule 2 , 3 or 4 to, the Data Protection Act 2017,
 - (b) on a request under section 43(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section, or

Schedule 18 - continued

(c) on a request under section 92(1)(b) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.

(1D) In this regulation –

“the data protection principles” means the principles set out in –

- (a) Article 5(1) of the GDPR,
- (b) section 32(1) of the Data Protection Act 2017, and
- (c) section 83(1) of that Act;

“the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act).”

(1E) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

(4) Omit paragraphs (2) to (4).

INSPIRE Regulations 2009 (S.I. 2009/3157)

201(1) Regulation 9 of the INSPIRE Regulations 2009 (public access to spatial data sets and spatial data services) is amended as follows.

(2) In paragraph (2) –

- (a) omit “or” at the end of sub-paragraph (a),
- (b) for sub-paragraph (b) substitute –

“(b) Article 21 of the GDPR (general processing: right to object to processing), or

(c) section 97 of the Data Protection Act 2017 (intelligence services processing: right to object to processing).”, and

(c) omit the words following sub-paragraph (b).

(3) After paragraph (7) insert –

“(8) In this regulation –

“the data protection principles” means the principles set out in –

- (a) Article 5(1) of the GDPR,
- (b) section 32(1) of the Data Protection Act 2017, and
- (c) section 83(1) of that Act;

“the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(10), (11) and (14) of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2017 (see section 2(2) and (14) of that Act).

(9) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”

Schedule 18 - continued*Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141)*

202 In the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014, omit Part 4 (data protection in relation to police and judicial co-operation in criminal matters).

Control of Explosives Precursors etc Regulations (Northern Ireland) 2014 (S.R.(N.I.) 2014 No. 224)

203 In regulation 6 of the Control of Explosives Precursors etc Regulations (Northern Ireland) 2014 (applications) –

- (a) in paragraph (9) omit sub-paragraph (b) and the word “and” before it, and
- (b) in paragraph (11) omit the definition of “processing” and “sensitive personal data” and the word “and” before it.

Control of Poisons and Explosives Precursors Regulations 2015 (S.I. 2015/966)

204 In regulation 3 of the Control of Poisons and Explosives Precursors Regulations 2015 (applications in relation to licences under section 4A of the Poisons Act 1972) –

- (a) in paragraph (7) omit sub-paragraph (b) and the word “and” before it, and
- (b) omit paragraph (8).

Provision inserted in subordinate legislation by this Schedule

205 Provision inserted into subordinate legislation by this Schedule may be amended or revoked as if it had been inserted using the power under which the subordinate legislation was originally made.”

Clause 193

LORD ASHTON OF HYDE

188B Page 111, line 27, at end insert “(ignoring extent by virtue of an Order in Council)”

188C Page 111, line 27, at end insert –

- “() Where there is a power to extend a part of an Act by Order in Council to any of the Channel Islands, the Isle of Man or any of the British overseas territories, the power may be exercised in relation to an amendment or repeal of that part which is made by or under this Act.”

In the Title

LORD ASHTON OF HYDE

189 Line 4, leave out “conduct” and insert “practice”

Data Protection Bill [HL]

SIXTH
MARSHALLED
LIST OF AMENDMENTS
TO BE MOVED
IN COMMITTEE OF THE WHOLE HOUSE

20 November 2017
