

# Data Protection Bill [HL]

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## COMMONS AMENDMENTS

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*[The page and line refer to Bill 153, the Bill as first printed for the Commons]*

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### Clause 3

- 1 Page 2, line 25, leave out “personal data” and insert “information”
- 2 Page 2, line 26, leave out “personal data, or on sets of personal data” and insert “information, or on sets of information”
- 3 Page 2, line 41, after “83” insert “and see also subsection (14)(c)”
- 4 Page 3, line 27, at end insert –  
    “(aa) references to Chapter 2 of Part 2, or to a provision of that Chapter, include that Chapter or that provision as applied by Chapter 3 of Part 2;”
- 5 Page 3, line 28, leave out “processing and personal data are to processing and personal data” and insert “personal data, and the processing of personal data, are to personal data and processing”
- 6 Page 3, line 29, at end insert –  
    “(c) references to a controller or processor are to a controller or processor in relation to the processing of personal data to which Chapter 2 or 3 of Part 2, Part 3 or Part 4 applies.”

### Clause 7

- 7 Page 5, line 8, leave out “a body specified” and insert “body specified or described”
- 8 Page 5, line 9, after “(2)” insert “, (2A)”
- 9 Page 5, line 11, after “body” insert “for the purposes of the GDPR”
- 10 Page 5, line 12, at end insert –  
    “(2A) The references in subsection (1)(a) and (b) to public authorities and Scottish public authorities as defined by the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 (asp 13) do not include any of the following that fall within those definitions –  
        (a) a parish council in England;  
        (b) a community council in Wales;  
        (c) a community council in Scotland;”

- (d) a parish meeting constituted under section 13 of the Local Government Act 1972;
- (e) a community meeting constituted under section 27 of that Act;
- (f) charter trustees constituted –
  - (i) under section 246 of that Act,
  - (ii) under Part 1 of the Local Government and Public Involvement in Health Act 2007, or
  - (iii) by the Charter Trustees Regulations 1996 (S.I. 1996/263).”

11 Page 5, line 13, after “specified” insert “or described”

#### **Clause 8**

12 Page 5, line 29, at end insert –  
 “( ) an activity that supports or promotes democratic engagement.”

#### **Clause 14**

13 Page 8, line 4, leave out “21 days” and insert “1 month”

14 Page 8, leave out line 10 and insert “within the period described in Article 12(3) of the GDPR –”

15 Page 8, line 16, at end insert –

“(5A) In connection with this section, a controller has the powers and obligations under Article 12 of the GDPR (transparency, procedure for extending time for acting on request, fees, manifestly unfounded or excessive requests etc) that apply in connection with Article 22 of the GDPR.”

#### **Clause 15**

16 Page 8, line 31, after “21” insert “and 34”

17 Page 8, line 34, after “21” insert “and 34”

#### **Clause 17**

18 Page 10, line 16, leave out “authority” and insert “body”

#### **Clause 19**

19 Page 12, line 2, leave out “(d)” and insert “(e)”

#### **Clause 21**

20 Page 12, line 24, leave out “to which Part 3 (law enforcement processing) or” and insert “by a competent authority for any of the law enforcement purposes (as defined in Part 3) or processing to which”

#### **Clause 25**

21 Page 15, line 40, leave out “individual” and insert “data subject”

**Clause 30**

- 22 Page 19, line 4, after “specified” insert “or described”
- 23 Page 19, line 10, leave out from “add” to end of line and insert “or remove a person or description of person”

**Clause 41**

- 24 Page 23, line 33, leave out “an individual” and insert “a data subject”

**Clause 42**

- 25 Page 24, line 29, leave out “with the day” and insert “when”

**Clause 47**

- 26 Page 28, line 20, leave out second “data”

**Clause 50**

- 27 Page 30, line 11, leave out “21 days” and insert “1 month”
- 28 Page 30, line 17, leave out “21 days” and insert “1 month”

**Clause 51**

- 29 Page 31, line 2, leave out from first “the” to end of line 3 and insert “restriction imposed by the controller was lawful;”
- 30 Page 31, line 11, leave out from first “the” to end of line 12 and insert “restriction imposed by the controller was lawful;”

**Clause 53**

- 31 Page 31, line 39, leave out “or 47” and insert “, 47 or 50”
- 32 Page 32, line 4, leave out “or 47” and insert “, 47 or 50”

**Clause 54**

- 33 Page 32, line 14, leave out “day” and insert “time”
- 34 Page 32, line 15, leave out “day” and insert “time”
- 35 Page 32, line 15, leave out “days”
- 36 Page 32, line 16, leave out “the day on which” and insert “when”
- 37 Page 32, line 17, leave out “the day on which” and insert “when”
- 38 Page 32, line 19, leave out “the day on which” and insert “when”

**Clause 94**

- 39 Page 55, line 8, leave out “day” and insert “time”
- 40 Page 55, line 9, leave out “day” and insert “time”

- 41 Page 55, line 10, leave out “days”
- 42 Page 55, line 11, leave out “the day on which” and insert “when”
- 43 Page 55, line 12, leave out “the day on which” and insert “when”
- 44 Page 55, line 13, leave out “the day on which” and insert “when”

**Clause 97**

- 45 Page 56, line 34, leave out “21 days” and insert “1 month”
- 46 Page 56, line 39, leave out “21 days” and insert “1 month”

**Clause 99**

- 47 Page 57, line 28, leave out “day” and insert “time”
- 48 Page 58, line 3, leave out “day” and insert “time”
- 49 Page 58, line 5, leave out “the day on which” and insert “when”
- 50 Page 58, line 6, leave out “the day on which” and insert “when”

**Clause 119**

- 51 Page 65, line 29, at end insert—
- “( ) Paragraphs (b) and (c) of section 3(14) do not apply to references in this section to personal data, the processing of personal data, a controller or a processor.”

**Clause 120**

- 52 Page 66, line 21, at end insert—
- “( ) Section 3(14)(b) does not apply to references to personal data and the processing of personal data in this section.”

**Clause 121**

- 53 Leave out Clause 121

**Clause 124**

- 54 Page 68, line 24, leave out “with the day on which” and insert “when”

**After Clause 124**

- 55 Insert the following new Clause—
- “Data protection and journalism code**
- (1) The Commissioner must prepare a code of practice which contains—
- (a) practical guidance in relation to the processing of personal data for the purposes of journalism in accordance with the requirements of the data protection legislation, and

- (b) such other guidance as the Commissioner considers appropriate to promote good practice in the processing of personal data for the purposes of journalism.
- (2) Where a code under this section is in force, the Commissioner may prepare amendments of the code or a replacement code.
- (3) Before preparing a code or amendments under this section, the Commissioner must consult such of the following as the Commissioner considers appropriate—
  - (a) trade associations;
  - (b) data subjects;
  - (c) persons who appear to the Commissioner to represent the interests of data subjects.
- (4) A code under this section may include transitional provision or savings.
- (5) In this section—
  - “good practice in the processing of personal data for the purposes of journalism” means such practice in the processing of personal data for those purposes as appears to the Commissioner to be desirable having regard to—
    - (a) the interests of data subjects and others, including compliance with the requirements of the data protection legislation, and
    - (b) the special importance of the public interest in the freedom of expression and information;
  - “trade association” includes a body representing controllers or processors.”

#### Clause 125

- 56 Page 69, line 2, leave out “or 124” and insert “, 124 or (*Data protection and journalism code*)”
- 57 Page 69, line 9, leave out “with the day on which” and insert “when”
- 58 Page 69, line 14, leave out “or 124” and insert “, 124 or (*Data protection and journalism code*)”
- 59 Page 69, line 21, leave out “or 124” and insert “, 124 or (*Data protection and journalism code*)”
- 60 Page 69, line 33, leave out “and 124” and insert “, 124 and (*Data protection and journalism code*)”

#### Clause 126

- 61 Page 70, line 3, leave out “or 124(2)” and insert “, 124(2) or (*Data protection and journalism code*)(2)”

#### Clause 142

- 62 Leave out Clause 142

**Clause 143**

- 63 Page 77, line 37, after “notice”)” insert “ –  
(a) ”
- 64 Page 77, line 40, at end insert “, or  
(b) require any person to provide the Commissioner with information that the Commissioner reasonably requires for the purposes of –  
(i) investigating a suspected failure of a type described in section 148(2) or a suspected offence under this Act, or  
(ii) determining whether the processing of personal data is carried out by an individual in the course of a purely personal or household activity.”
- 65 Page 78, line 1, after “state” insert “ –  
(a) whether it is given under subsection (1)(a), (b)(i) or (b)(ii), and  
(b) ”
- 66 Page 78, line 11, leave out “the rights of appeal under section 161” and insert “ –  
(a) the consequences of failure to comply with it, and  
(b) the rights under sections 161 and (*Applications in respect of urgent notices*) (appeals etc).”
- 67 Page 78, line 22, leave out “7 days” and insert “24 hours”
- 68 Page 78, line 23, leave out “with the day on which” and insert “when”
- 69 Page 78, line 30, at end insert –  
“( ) Section 3(14)(b) does not apply to the reference to the processing of personal data in subsection (1)(b).”

**After Clause 145**

- 70 Insert the following new Clause –  
**“Information orders**  
(1) This section applies if, on an application by the Commissioner, a court is satisfied that a person has failed to comply with a requirement of an information notice.  
(2) The court may make an order requiring the person to provide to the Commissioner some or all of the following –  
(a) information referred to in the information notice;  
(b) other information which the court is satisfied the Commissioner requires, having regard to the statement included in the notice in accordance with section 143(2)(b).  
(3) The order –  
(a) may specify the form in which the information must be provided,  
(b) must specify the time at which, or the period within which, the information must be provided, and  
(c) may specify the place where the information must be provided.”

**Clause 146**

- 71 Page 80, line 14, after “for” insert “a copy (in such form as may be requested) of”

- 72 Page 80, line 15, leave out “a copy of”
- 73 Page 80, line 16, leave out “a copy (in such form as may be requested) of”
- 74 Page 80, line 22, at end insert –  
“( ) provide the Commissioner with an explanation of such documents, information, equipment or material;”
- 75 Page 80, line 34, leave out “(8)” and insert “(8A)”
- 76 Page 80, line 35, leave out “the rights of appeal under section 161” and insert “–  
(a) the consequences of failure to comply with it, and  
(b) the rights under sections 161 and (*Applications in respect of urgent notices*) (appeals etc).”
- 77 Page 80, line 46, at end insert “, and  
( ) does not meet the conditions in subsection (8A)(a) to (d),”
- 78 Page 81, line 3, leave out “with the day on which” and insert “when”
- 79 Page 81, line 3, at end insert –  
“(8A) If an assessment notice –  
(a) states that, in the Commissioner’s opinion, there are reasonable grounds for suspecting that a controller or processor has failed or is failing as described in section 148(2) or that an offence under this Act has been or is being committed,  
(b) indicates the nature of the suspected failure or offence,  
(c) does not specify domestic premises,  
(d) states that, in the Commissioner’s opinion, it is necessary for the controller or processor to comply with a requirement in the notice in less than 7 days, and  
(e) gives the Commissioner’s reasons for reaching that opinion, subsections (6) and (7) do not apply.”
- 80 Page 81, line 9, after “section” insert “ –  
“domestic premises” means premises, or a part of premises, used as a dwelling;”

#### After Clause 147

- 81 Insert the following new Clause –  
**“Destroying or falsifying information and documents etc**  
(1) This section applies where a person –  
(a) has been given an information notice requiring the person to provide the Commissioner with information, or  
(b) has been given an assessment notice requiring the person to direct the Commissioner to a document, equipment or other material or to assist the Commissioner to view information.  
(2) It is an offence for the person –  
(a) to destroy or otherwise dispose of, conceal, block or (where relevant) falsify all or part of the information, document, equipment or material, or

- (b) to cause or permit the destruction, disposal, concealment, blocking or (where relevant) falsification of all or part of the information, document, equipment or material,  
with the intention of preventing the Commissioner from viewing, or being provided with or directed to, all or part of the information, document, equipment or material.
- (3) It is a defence for a person charged with an offence under subsection (2) to prove that the destruction, disposal, concealment, blocking or falsification would have occurred in the absence of the person being given the notice.”

#### Clause 148

- 82 Page 82, line 15, after “GDPR” insert “or section 64 or 65 of this Act”
- 83 Page 82, line 44, leave out “enforcement notices” and insert “an enforcement notice”
- 84 Page 82, line 45, at end insert “, including by amending this section and sections 149 to 151,”
- 85 Page 83, line 1, leave out paragraph (b) and insert –  
“( ) may make provision about the giving of an information notice, an assessment notice or a penalty notice, or about powers of entry and inspection, in connection with the failure, including by amending sections 143, 144, 146, 147 and 154 to 156 and Schedules 15 and 16, and”

#### Clause 149

- 86 Page 83, line 22, leave out “the rights of appeal under section 161” and insert “–  
(a) the consequences of failure to comply with it, and  
(b) the rights under sections 161 and (*Applications in respect of urgent notices*) (appeals etc).”
- 87 Page 83, line 35, leave out “7 days” and insert “24 hours”
- 88 Page 83, line 36, leave out “with the day on which” and insert “when”

#### Clause 154

- 89 Page 85, line 39, leave out from the beginning to “when” and insert “Subject to subsection (3A),”
- 90 Page 86, line 10, at end insert “or distress”
- 91 Page 86, line 28, at end insert –  
“(3A) Subsections (2) and (3) do not apply in the case of a decision or determination relating to a failure described in section 148(5).”

#### Clause 157

- 92 Page 88, line 28, leave out “Secretary of State” and insert “Commissioner”

**Clause 159**

- 93 Page 89, line 5, at end insert—  
“( ) information notices,”
- 94 Page 89, line 11, at end insert—  
“( ) In relation to information notices, the guidance must include—  
(a) provision specifying factors to be considered in determining the time at which, or the period within which, information is to be required to be provided;  
(b) provision about the circumstances in which the Commissioner would consider it appropriate to give an information notice to a person in reliance on section 143(7) (urgent cases);  
(c) provision about how the Commissioner will determine how to proceed if a person does not comply with an information notice.”
- 95 Page 89, line 14, at end insert—  
“( ) provision about the circumstances in which the Commissioner would consider it appropriate to give an assessment notice in reliance on section 146(8) or (8A) (urgent cases);”
- 96 Page 89, line 26, at end insert—  
“( ) provision about how the Commissioner will determine how to proceed if a person does not comply with an assessment notice.”
- 97 Page 89, line 32, at end insert—  
“( ) In relation to enforcement notices, the guidance must include—  
(a) provision specifying factors to be considered in determining whether to give an enforcement notice to a person;  
(b) provision about the circumstances in which the Commissioner would consider it appropriate to give an enforcement notice to a person in reliance on section 149(8) (urgent cases);  
(c) provision about how the Commissioner will determine how to proceed if a person does not comply with an enforcement notice.”
- 98 Page 89, line 37, leave out from “a” to end of line 38 and insert “person to make oral representations about the Commissioner’s intention to give the person a penalty notice;”
- 99 Page 89, line 40, at end insert—  
“( ) provision about how the Commissioner will determine how to proceed if a person does not comply with a penalty notice.”
- 100 Page 90, line 1, leave out “Secretary of State” and insert “Commissioner”

**Clause 161**

- 101 Page 91, line 1, leave out subsection (2)
- 102 Page 91, line 11, after “appeal” insert “to the Tribunal”

**Clause 162**

- 103 Page 91, line 30, leave out subsection (5)

**After Clause 162**

**104** Insert the following new Clause –

**“Applications in respect of urgent notices**

- (1) This section applies where an information notice, an assessment notice or an enforcement notice given to a person contains an urgency statement.
- (2) The person may apply to the court for either or both of the following –
  - (a) the disapplication of the urgency statement in relation to some or all of the requirements of the notice;
  - (b) a change to the time at which, or the period within which, a requirement of the notice must be complied with.
- (3) On an application under subsection (2), the court may do any of the following –
  - (a) direct that the notice is to have effect as if it did not contain the urgency statement;
  - (b) direct that the inclusion of the urgency statement is not to have effect in relation to a requirement of the notice;
  - (c) vary the notice by changing the time at which, or the period within which, a requirement of the notice must be complied with;
  - (d) vary the notice by making other changes required to give effect to a direction under paragraph (a) or (b) or in consequence of a variation under paragraph (c).
- (4) The decision of the court on an application under this section is final.
- (5) In this section, “urgency statement” means –
  - (a) in relation to an information notice, a statement under section 143(7)(a),
  - (b) in relation to an assessment notice, a statement under section 146(8)(a) or (8A)(d), and
  - (c) in relation to an enforcement notice, a statement under section 149(8)(a).”

**Clause 164**

**105** Page 93, line 4, leave out “with the day on which” and insert “when”

**Clause 168**

**106** Leave out Clause 168

**Clause 169**

**107** Leave out Clause 169

**After Clause 176**

108 Insert the following new Clause –

**“Guidance about how to seek redress against media organisations**

- (1) The Commissioner must produce and publish guidance about the steps that may be taken where an individual considers that a media organisation is failing or has failed to comply with the data protection legislation.
- (2) In this section, “media organisation” means a body or other organisation whose activities consist of or include journalism.
- (3) The guidance must include provision about relevant complaints procedures, including –
  - (a) who runs them,
  - (b) what can be complained about, and
  - (c) how to make a complaint.
- (4) For the purposes of subsection (3), relevant complaints procedures include procedures for making complaints to the Commissioner, the Office of Communications, the British Broadcasting Corporation and other persons who produce or enforce codes of practice for media organisations.
- (5) The guidance must also include provision about –
  - (a) the powers available to the Commissioner in relation to a failure to comply with the data protection legislation,
  - (b) when a claim in respect of such a failure may be made before a court and how to make such a claim,
  - (c) alternative dispute resolution procedures,
  - (d) the rights of bodies and other organisations to make complaints and claims on behalf of data subjects, and
  - (e) the Commissioner’s power to provide assistance in special purpose proceedings.
- (6) The Commissioner –
  - (a) may alter or replace the guidance, and
  - (b) must publish any altered or replacement guidance.
- (7) The Commissioner must produce and publish the first guidance under this section before the end of the period of 1 year beginning when this Act is passed.”

109 Insert the following new Clause –

**“Review of processing of personal data for the purposes of journalism**

- (1) The Commissioner must –
  - (a) review the extent to which the processing of personal data for the purposes of journalism complied with the data protection legislation during the review period,
  - (b) prepare a report of the review, and
  - (c) submit the report to the Secretary of State.
- (2) “The review period” means the period of 4 years beginning with the day on which Chapter 2 of Part 2 of this Act comes into force.

- (3) The Commissioner must –
  - (a) start the review within the period of 6 months beginning when the review period ends, and
  - (b) submit the report to the Secretary of State before the end of the period of 18 months beginning when the Commissioner started the review.
- (4) The report must include consideration of the extent of compliance (as described in subsection (1)(a)) in each part of the United Kingdom.
- (5) The Secretary of State must –
  - (a) lay the report before Parliament, and
  - (b) send a copy of the report to –
    - (i) the Scottish Ministers,
    - (ii) the Welsh Ministers, and
    - (iii) the Executive Office in Northern Ireland.”

#### Clause 177

- 110 Page 102, line 4, for “subsection (3)” substitute “subsections (3) and (4)”
- 111 Page 102, line 5, at end insert –
  - “( ) section (*Information orders*) (information orders);”
- 112 Page 102, line 12, after “jurisdiction” insert “conferred by the provisions listed in subsection (2)”
- 113 Page 102, line 13, at end insert –
  - “(4) In relation to an information notice which contains a statement under section 143(7), the jurisdiction conferred on a court by section (*Information orders*) is exercisable only by the High Court or, in Scotland, the Court of Session.
  - (5) The jurisdiction conferred on a court by section (*Applications in respect of urgent notices*) (applications in respect of urgent notices) is exercisable only by the High Court or, in Scotland, the Court of Session.”

#### Clause 179

- 114 Page 103, line 35, at end insert –
  - “( ) If a draft of a statutory instrument containing regulations under section 7 would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.”

#### Clause 183

- 115 Page 105, line 42, leave out “80” and insert “80(1)”
- 116 Page 105, line 44, leave out “certain rights” and insert “the data subject’s rights under Articles 77, 78 and 79 of the GDPR (rights to lodge complaints and to an effective judicial remedy)”
- 117 Page 106, line 7, leave out “under the following provisions” and insert “of a data subject”

- 118 Page 106, line 9, at beginning insert “rights under”
- 119 Page 106, line 10, at beginning insert “rights under”
- 120 Page 106, line 11, at beginning insert “rights under”

#### After Clause 183

- 121 Insert the following new Clause –

##### **“Representation of data subjects with their authority: collective proceedings**

- (1) The Secretary of State may by regulations make provision for representative bodies to bring proceedings before a court or tribunal in England and Wales or Northern Ireland combining two or more relevant claims.
- (2) In this section, “relevant claim”, in relation to a representative body, means a claim in respect of a right of a data subject which the representative body is authorised to exercise on the data subject’s behalf under Article 80(1) of the GDPR or section 183.
- (3) The power under subsection (1) includes power –
  - (a) to make provision about the proceedings;
  - (b) to confer functions on a person, including functions involving the exercise of a discretion;
  - (c) to make different provision in relation to England and Wales and in relation to Northern Ireland.
- (4) The provision mentioned in subsection (3)(a) includes provision about –
  - (a) the effect of judgments and orders;
  - (b) agreements to settle claims;
  - (c) the assessment of the amount of compensation;
  - (d) the persons to whom compensation may or must be paid, including compensation not claimed by the data subject;
  - (e) costs.
- (5) Regulations under this section are subject to the negative resolution procedure.”

- 122 Insert the following new Clause –

##### **“Duty to review provision for representation of data subjects**

- (1) Before the end of the review period, the Secretary of State must –
  - (a) review the matters listed in subsection (2) in relation to England and Wales and Northern Ireland,
  - (b) prepare a report of the review, and
  - (c) lay a copy of the report before Parliament.
- (2) Those matters are –
  - (a) the operation of Article 80(1) of the GDPR,
  - (b) the operation of section 183,
  - (c) the merits of exercising the power under Article 80(2) of the GDPR (power to enable a body or other organisation which meets the conditions in Article 80(1) of the GDPR to exercise some or all of a data subject’s rights under Articles 77, 78 and 79 of the GDPR without being authorised to do so by the data subject),

- (d) the merits of making equivalent provision in relation to data subjects' rights under Article 82 of the GDPR (right to compensation), and
  - (e) the merits of making provision for a children's rights organisation to exercise some or all of a data subject's rights under Articles 77, 78, 79 and 82 of the GDPR on behalf of a data subject who is a child, with or without being authorised to do so by the data subject.
- (3) "The review period" is the period of 30 months beginning when section 183 comes into force.
- (4) In carrying out the review, the Secretary of State must—
- (a) consider the particular needs of children separately from the needs of adults,
  - (b) have regard to the fact that children have different needs at different stages of development,
  - (c) carry out an analysis of the particular challenges that children face in authorising, and deciding whether to authorise, other persons to act on their behalf under Article 80(1) of the GDPR or section 183,
  - (d) consider the support and advice available to children in connection with the exercise of their rights under Articles 77, 78, 79 and 82 of the GDPR by another person on their behalf and the merits of making available other support or advice, and
  - (e) have regard to the United Kingdom's obligations under the United Nations Convention on the Rights of the Child.
- (5) Before preparing the report under subsection (1), the Secretary of State must consult the Commissioner and such other persons as the Secretary of State considers appropriate, including—
- (a) persons active in the field of protection of data subjects' rights and freedoms with regard to the protection of their personal data,
  - (b) children and parents,
  - (c) children's rights organisations and other persons who appear to the Secretary of State to represent the interests of children,
  - (d) child development experts, and
  - (e) trade associations.
- (6) In this section—
- "children's rights organisation" means a body or other organisation which—
    - (a) is active in representing the interests of children, and
    - (b) has objectives which are in the public interest;
  - "trade association" includes a body representing controllers or processors;
  - "the United Nations Convention on the Rights of the Child" means the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989 (including any Protocols to that Convention which are in force in relation to the United Kingdom), subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force."

123 Insert the following new Clause –

**“Post-review powers to make provision about representation of data subjects**

- (1) After the report under section (*Duty to review provision for representation of data subjects*)(1) is laid before Parliament, the Secretary of State may by regulations –
  - (a) exercise the powers under Article 80(2) of the GDPR in relation to England and Wales and Northern Ireland,
  - (b) make provision enabling a body or other organisation which meets the conditions in Article 80(1) of the GDPR to exercise a data subject’s rights under Article 82 of the GDPR in England and Wales and Northern Ireland without being authorised to do so by the data subject, and
  - (c) make provision described in section (*Duty to review provision for representation of data subjects*)(2)(e) in relation to the exercise in England and Wales and Northern Ireland of the rights of a data subject who is a child.
- (2) The powers under subsection (1) include power –
  - (a) to make provision enabling a data subject to prevent a body or other organisation from exercising, or continuing to exercise, the data subject’s rights;
  - (b) to make provision about proceedings before a court or tribunal where a body or organisation exercises a data subject’s rights;
  - (c) to make provision for bodies or other organisations to bring proceedings before a court or tribunal combining two or more claims in respect of a right of a data subject;
  - (d) to confer functions on a person, including functions involving the exercise of a discretion;
  - (e) to amend sections 164 to 166, 177, 183, 196, 198 and 199;
  - (f) to insert new sections and Schedules into Part 6 or 7;
  - (g) to make different provision in relation to England and Wales and in relation to Northern Ireland.
- (3) The powers under subsection (1)(a) and (b) include power to make provision in relation to data subjects who are children or data subjects who are not children or both.
- (4) The provision mentioned in subsection (2)(b) and (c) includes provision about –
  - (a) the effect of judgments and orders;
  - (b) agreements to settle claims;
  - (c) the assessment of the amount of compensation;
  - (d) the persons to whom compensation may or must be paid, including compensation not claimed by the data subject;
  - (e) costs.
- (5) Regulations under this section are subject to the affirmative resolution procedure.”

**Clause 184**

124 Page 106, line 41, leave out “(including as applied by Chapter 3 of that Part)”

125 Transpose Clause 184 to after Clause 182

**After Clause 188**

**126** Insert the following new Clause –

**“Reserve forces: data-sharing by HMRC**

- (1) The Reserve Forces Act 1996 is amended as follows.
- (2) After section 125 insert –

**“125A Supply of contact details by HMRC**

- (1) This subsection applies to contact details for –
  - (a) a member of an ex-regular reserve force, or
  - (b) a person to whom section 66 (officers and former servicemen liable to recall) applies,
 which are held by HMRC in connection with a function of HMRC.
- (2) HMRC may supply contact details to which subsection (1) applies to the Secretary of State for the purpose of enabling the Secretary of State –
  - (a) to contact a member of an ex-regular reserve force in connection with the person’s liability, or potential liability, to be called out for service under Part 6;
  - (b) to contact a person to whom section 66 applies in connection with the person’s liability, or potential liability, to be recalled for service under Part 7.
- (3) Where a person’s contact details are supplied under subsection (2) for a purpose described in that subsection, they may also be used for defence purposes connected with the person’s service (whether past, present or future) in the reserve forces or regular services.
- (4) In this section, “HMRC” means Her Majesty’s Revenue and Customs.

**125B Prohibition on disclosure of contact details supplied under section 125A**

- (1) A person who receives information supplied under section 125A may not disclose it except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific).
- (2) A person who contravenes subsection (1) is guilty of an offence.
- (3) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed –
  - (a) that the disclosure was lawful, or
  - (b) that the information had already lawfully been made available to the public.
- (4) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under this section as they apply to an offence under that section.
- (5) Nothing in section 107 or 108 (institution of proceedings and evidence) applies in relation to an offence under this section.

**125C Data protection**

- (1) Nothing in section 125A or 125B authorises the making of a disclosure which contravenes the data protection legislation.
- (2) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

**Clause 189**

**127** Page 109, line 4, after “145” insert “, (*Destroying or falsifying information and documents etc*)”

**Clause 192**

**128** Page 110, line 33, at end insert –  
“( ) section (*Destroying or falsifying information and documents etc*);”

**Clause 198**

**129** Page 114, line 25, at end insert “the following (except in the expression “United Kingdom government department”)”

**130** Page 115, line 8, at end insert –

“(2) References in this Act to a period expressed in hours, days, weeks, months or years are to be interpreted in accordance with Article 3 of Regulation (EEC, Euratom) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits, except in –

- (a) section 125(4), (7) and (8);
- (b) section 160(3), (5) and (6);
- (c) section 176(2);
- (d) section (*Review of processing of personal data for the purposes of journalism*)(2);
- (e) section 179(8) and (9);
- (f) section 180(4);
- (g) section 186(3), (5) and (6);
- (h) section 190(3) and (4);
- (i) paragraph 18(4) and (5) of Schedule 1;
- (j) paragraphs 5(4) and 6(4) of Schedule 3;
- (k) Schedule 5;
- (l) paragraph 11(5) of Schedule 12;
- (m) Schedule 15;

(and the references in section 5 to terms used in Chapter 2 or 3 of Part 2 do not include references to a period expressed in hours, days, weeks, months or years).”

**131** Page 115, line 8, at end insert—

“( ) Section 3(14)(aa) (interpretation of references to Chapter 2 of Part 2 in Parts 5 to 7) and the amendments in Schedule 18 which make equivalent provision are not to be treated as implying a contrary intention for the purposes of section 20(2) of the Interpretation Act 1978, or any similar provision in another enactment, as it applies to other references to, or to a provision of, Chapter 2 of Part 2 of this Act.”

#### Clause 200

**132** Page 117, line 15, leave out subsections (1) to (4) and insert—

- “(1) This Act applies only to processing of personal data described in subsections (2) and (3).
- (2) It applies to the processing of personal data in the context of the activities of an establishment of a controller or processor in the United Kingdom, whether or not the processing takes place in the United Kingdom.
- (3) It also applies to the processing of personal data to which Chapter 2 of Part 2 (the GDPR) applies where—
- (a) the processing is carried out in the context of the activities of an establishment of a controller or processor in a country or territory that is not a member State, whether or not the processing takes place in such a country or territory,
  - (b) the personal data relates to a data subject who is in the United Kingdom when the processing takes place, and
  - (c) the processing activities are related to—
    - (i) the offering of goods or services to data subjects in the United Kingdom, whether or not for payment, or
    - (ii) the monitoring of data subjects’ behaviour in the United Kingdom.”

**133** Page 118, line 8, leave out “(4)” and insert “(3)”

**134** Page 118, line 8, after “provision” insert “in or”

**135** Page 118, leave out line 10 and insert “processing of personal data”

**136** Page 118, line 10, at end insert—

- “(5A) Section 3(14)(b) does not apply to the reference to the processing of personal data in subsection (2).
- (5B) The reference in subsection (3) to Chapter 2 of Part 2 (the GDPR) does not include that Chapter as applied by Chapter 3 of Part 2 (the applied GDPR).”

**137** Page 118, line 11, leave out “established” and insert “who has an establishment”

**138** Page 118, line 21, after “to” insert “a person who has an”

**139** Page 118, line 23, leave out subsection (7)

**Clause 204**

**140** Page 120, line 12, leave out subsection (1) and insert –

- “(1) In Schedule 18 –
- (a) Part 1 contains minor and consequential amendments of primary legislation;
  - (b) Part 2 contains minor and consequential amendments of other legislation;
  - (c) Part 3 contains consequential modifications of legislation;
  - (d) Part 4 contains supplementary provision.”

**Clause 205**

**141** Page 120, line 37, leave out paragraph (b)

**142** Page 120, line 41, for “206” substitute “206(2)”

**143** Page 121, line 4, at end insert –

- “( ) Regulations under this section may make different provision for different areas.”

**Clause 206**

**144** Page 121, line 5, at end insert –

- “(1) Schedule (*Transitional provision etc*) contains transitional, transitory and saving provision.

(2) ”

**145** Page 121, line 8, at end insert “or with the GDPR beginning to apply, including provision amending or repealing a provision of Schedule (*Transitional provision etc*).

- ( ) Regulations under this section that amend or repeal a provision of Schedule (*Transitional provision etc*) are subject to the negative resolution procedure.”

**Clause 207**

**146** Page 121, line 12, after “(2)” insert “, (2A)”

**147** Page 121, line 12, leave out “and (3)” and insert “, (3) and (3A)”

**148** Page 121, line 14, at end insert –

- “(2A) Sections (*Representation of data subjects with their authority: collective proceedings*), (*Duty to review provision for representation of data subjects*) and (*Post-review powers to make provision about representation of data subjects*) extend to England and Wales and Northern Ireland only.”

**149** Page 121, line 15, after “extent” insert “in the United Kingdom”

**150** Page 121, line 16, leave out “(ignoring extent by virtue of an Order in Council)”

151 Page 121, line 17, at end insert –

“(3A) This subsection and the following provisions also extend to the Isle of Man –

- (a) paragraphs 200O and 205 of Schedule 18;
- (b) sections 204(1), 205(1) and 206(2), so far as relating to those paragraphs.”

#### Clause 208

152 Page 121, line 24, leave out subsection (2)

#### Schedule 1

153 Page 123, line 21, at beginning insert “Except as otherwise provided,”

154 Page 124, line 24, leave out from “subject” to end of line 25

155 Page 124, line 36, at end insert –

*“Racial and ethnic diversity at senior levels of organisations*

8A (1) This condition is met if the processing –

- (a) is of personal data revealing racial or ethnic origin,
- (b) is carried out as part of a process of identifying suitable individuals to hold senior positions in a particular organisation, a type of organisation or organisations generally,
- (c) is necessary for the purposes of promoting or maintaining diversity in the racial and ethnic origins of individuals who hold senior positions in the organisation or organisations, and
- (d) can reasonably be carried out without the consent of the data subject,

subject to the exception in sub-paragraph (3).

(2) For the purposes of sub-paragraph (1)(d), processing can reasonably be carried out without the consent of the data subject only where –

- (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
- (b) the controller is not aware of the data subject withholding consent.

(3) Processing does not meet the condition in sub-paragraph (1) if it is likely to cause substantial damage or substantial distress to an individual.

(4) For the purposes of this paragraph, an individual holds a senior position in an organisation if the individual –

- (a) holds a position listed in sub-paragraph (5), or
- (b) does not hold such a position but is a senior manager of the organisation.

(5) Those positions are –

- (a) a director, secretary or other similar officer of a body corporate;
- (b) a member of a limited liability partnership;

- (c) a partner in a partnership within the Partnership Act 1890, a limited partnership registered under the Limited Partnerships Act 1907 or an entity of a similar character formed under the law of a country or territory outside the United Kingdom.
- (6) In this paragraph, “senior manager”, in relation to an organisation, means a person who plays a significant role in—
- (a) the making of decisions about how the whole or a substantial part of the organisation’s activities are to be managed or organised, or
  - (b) the actual managing or organising of the whole or a substantial part of those activities.
- (7) The reference in sub-paragraph (2)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”
- 156** Page 125, line 3, at end insert—
- “( ) If the processing consists of the disclosure of personal data to a competent authority, or is carried out in preparation for such disclosure, the condition in sub-paragraph (1) is met even if, when the processing is carried out, the controller does not have an appropriate policy document in place (see paragraph 5 of this Schedule).”
- 157** Page 125, line 4, at end insert—
- ““competent authority” has the same meaning as in Part 3 of this Act (see section 30).”
- 158** Page 125, line 16, at end insert—
- “Regulatory requirements relating to unlawful acts and dishonesty etc*
- 10A (1) This condition is met if—
- (a) the processing is necessary for the purposes of complying with, or assisting other persons to comply with, a regulatory requirement which involves a person taking steps to establish whether another person has—
    - (i) committed an unlawful act, or
    - (ii) been involved in dishonesty, malpractice or other seriously improper conduct,
  - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing, and
  - (c) the processing is necessary for reasons of substantial public interest.
- (2) In this paragraph—
- “act” includes a failure to act;
- “regulatory requirement” means—
- (a) a requirement imposed by legislation or by a person in exercise of a function conferred by legislation, or
  - (b) a requirement forming part of generally accepted principles of good practice relating to a type of body or an activity.”

159 Page 125, line 35, at end insert –

“( ) The condition in sub-paragraph (1) is met even if, when the processing is carried out, the controller does not have an appropriate policy document in place (see paragraph 5 of this Schedule).”

160 Page 126, line 22, at end insert –

*“Support for individuals with a particular disability or medical condition*

13A (1) This condition is met if the processing –

- (a) is carried out by a not-for-profit body which provides support to individuals with a particular disability or medical condition,
  - (b) is of a type of personal data falling within sub-paragraph (2) which relates to an individual falling within sub-paragraph (3),
  - (c) is necessary for the purposes of –
    - (i) raising awareness of the disability or medical condition, or
    - (ii) providing support to individuals falling within sub-paragraph (3) or enabling such individuals to provide support to each other,
  - (d) can reasonably be carried out without the consent of the data subject, and
  - (e) is necessary for reasons of substantial public interest.
- (2) The following types of personal data fall within this sub-paragraph –
- (a) personal data revealing racial or ethnic origin;
  - (b) genetic data or biometric data;
  - (c) data concerning health;
  - (d) personal data concerning an individual’s sex life or sexual orientation.
- (3) An individual falls within this sub-paragraph if the individual is or has been a member of the body mentioned in sub-paragraph (1)(a) and –
- (a) has the disability or condition mentioned there, has had that disability or condition or has a significant risk of developing that disability or condition, or
  - (b) is a relative or carer of an individual who satisfies paragraph (a) of this sub-paragraph.
- (4) For the purposes of sub-paragraph (1)(d), processing can reasonably be carried out without the consent of the data subject only where –
- (a) the controller cannot reasonably be expected to obtain the consent of the data subject, and
  - (b) the controller is not aware of the data subject withholding consent.
- (5) In this paragraph –
- “carer” means an individual who provides or intends to provide care for another individual other than –
    - (a) under or by virtue of a contract, or
    - (b) as voluntary work;
  - “disability” has the same meaning as in the Equality Act 2010 (see section 6 of, and Schedule 1 to, that Act).

- (6) The reference in sub-paragraph (4)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”

**161** Page 126, line 27, leave out “a reason” and insert “one of the reasons”

**162** Page 126, line 38, at end insert –

*“Safeguarding of children and of individuals at risk*

14A (1) This condition is met if –

- (a) the processing is necessary for the purposes of –
    - (i) protecting an individual from neglect or physical, mental or emotional harm, or
    - (ii) protecting the physical, mental or emotional well-being of an individual,
  - (b) the individual is –
    - (i) aged under 18, or
    - (ii) aged 18 or over and at risk,
  - (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
  - (d) the processing is necessary for reasons of substantial public interest.
- (2) The reasons mentioned in sub-paragraph (1)(c) are –
- (a) in the circumstances, consent to the processing cannot be given by the data subject;
  - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;
  - (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).
- (3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual –
- (a) has needs for care and support,
  - (b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
  - (c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.
- (4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual includes both protection relating to a particular individual and protection relating to a type of individual.”

**163** Page 126, line 38, at end insert –

*“Safeguarding of economic well-being of certain individuals*

14B (1) This condition is met if the processing –

- (a) is necessary for the purposes of protecting the economic well-being of an individual at economic risk who is aged 18 or over,

- (b) is of data concerning health,
  - (c) is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
  - (d) is necessary for reasons of substantial public interest.
- (2) The reasons mentioned in sub-paragraph (1)(c) are –
- (a) in the circumstances, consent to the processing cannot be given by the data subject;
  - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;
  - (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).
- (3) In this paragraph, “individual at economic risk” means an individual who is less able to protect his or her economic well-being by reason of physical or mental injury, illness or disability.”
- 164** Page 127, line 30, at end insert –
- “( ) The reference in sub-paragraph (4)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”
- 165** Page 127, line 39, at end insert –
- “( ) is of data concerning health which relates to a data subject who is the parent, grandparent, great-grandparent or sibling of a member of the scheme,”
- 166** Page 128, line 6, at end insert –
- “( ) The reference in sub-paragraph (2)(b) to a data subject withholding consent does not include a data subject merely failing to respond to a request for consent.”
- 167** Page 129, line 23, at end insert –
- “( ) a mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;”
- 168** Page 129, line 31, at end insert –
- “( ) a police and crime commissioner.”
- 169** Page 131, line 14, at end insert –
- “( ) If the processing consists of the disclosure of personal data to a body or association described in sub-paragraph (1)(a), or is carried out in preparation for such disclosure, the condition in sub-paragraph (1) is met even if, when the processing is carried out, the controller does not have an appropriate policy document in place (see paragraph 5 of this Schedule).”
- 170** Page 133, line 17, leave out from “interest” to end of line 21
- 171** Page 134, line 18, leave out “on the day” and insert “when”

## Schedule 2

- 172** Page 135, line 7, at end insert—  
 “( ) Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);”
- 173** Page 135, line 19, after “provisions” insert “and Article 34(1) and (4) of the GDPR (communication of personal data breach to the data subject)”
- 174** Page 137, line 4, leave out from “(vi)” to end of line 9
- 175** Page 137, line 11, at end insert “and, subject to sub-paragraph (2)(vii) of this paragraph, the provisions of Article 5 listed in paragraph 1(b).)”
- 176** Page 138, line 15, at end insert—  
 “( ) Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);”
- 177** Page 139, leave out lines 17 to 27 and insert—

<p>“2. The function is designed to protect members of the public against—</p> <p>(a) dishonesty, malpractice or other seriously improper conduct, or</p> <p>(b) unfitness or incompetence.</p>	<p>The function is—</p> <p>(a) conferred on a person by an enactment,</p> <p>(b) a function of the Crown, a Minister of the Crown or a government department, or</p> <p>(c) of a public nature, and is exercised in the public interest.”</p>
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- 178** Page 140, line 42, at end insert—  
*“Audit functions*
- 7A (1) The listed GDPR provisions do not apply to personal data processed for the purposes of discharging a function listed in sub-paragraph (2) to the extent that the application of those provisions would be likely to prejudice the proper discharge of the function.
- (2) The functions are any function that is conferred by an enactment on—
- (a) the Comptroller and Auditor General;
- (b) the Auditor General for Scotland;
- (c) the Auditor General for Wales;
- (d) the Comptroller and Auditor General for Northern Ireland.”
- 179** Page 140, line 42, at end insert—  
*“Functions of the Bank of England*
- 7B (1) The listed GDPR provisions do not apply to personal data processed for the purposes of discharging a relevant function of the Bank of England to the extent that the application of those provisions would be likely to prejudice the proper discharge of the function.

- (2) “Relevant function of the Bank of England” means –
- (a) a function discharged by the Bank acting in its capacity as a monetary authority (as defined in section 244(2)(c) and (2A) of the Banking Act 2009);
  - (b) a public function of the Bank within the meaning of section 349 of the Financial Services and Markets Act 2000;
  - (c) a function conferred on the Prudential Regulation Authority by or under the Financial Services and Markets Act 2000 or by another enactment.”

180 Page 141, line 18, leave out “body” and insert “person”

181 Page 141, line 19, leave out “body” and insert “person”

182 Page 142, line 7, column 2, at end insert –

“( ) section 244 of the Investigatory Powers Act 2016;”

183 Page 142, line 37, at end insert –

“1A. The Scottish Information Commissioner.

By or under –

- (a) the Freedom of Information (Scotland) Act 2002 (asp 13);
- (b) the Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520);
- (c) the INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440).”

184 Page 143, line 7, leave out “or under any” and insert “an”

185 Page 143, line 7, at end insert –

“5A. The Financial Conduct Authority.

By or under the Financial Services and Markets Act 2000 or by another enactment.”

186 Page 143, line 22, at end insert –

“12. The Charity Commission.

By or under –

- (a) the Charities Act 1992;
- (b) the Charities Act 2006;
- (c) the Charities Act 2011.”

187 Page 146, line 22, leave out “16(4)(a) or (b)” and insert “16(4)(a), (b) or (c)”

- 188 Page 146, line 44, at end insert “, or  
 (b) information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser.”
- 189 Page 149, line 23, leave out “with the date on which” and insert “when”
- 190 Page 149, line 25, leave out “the date of”
- 191 Page 150, line 45, at end insert –  
 “( ) Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);”
- 192 Page 151, line 1, after “processor)” insert “ –  
 (i) Article 34(1) and (4) (communication of personal data breach to the data subject);  
 (ii) ”

### Schedule 3

- 193 Page 160, line 21, leave out “with the day on which” and insert “when”
- 194 Page 162, line 3, leave out paragraph 16 and insert –  
 “16 (1) This paragraph applies to a record of information which –  
 (a) is processed by or on behalf of the Board of Governors, proprietor or trustees of, or a teacher at, a school in Northern Ireland specified in sub-paragraph (3),  
 (b) relates to an individual who is or has been a pupil at the school, and  
 (c) originated from, or was supplied by or on behalf of, any of the persons specified in sub-paragraph (4).  
 (2) But this paragraph does not apply to information which is processed by a teacher solely for the teacher’s own use.  
 (3) The schools referred to in sub-paragraph (1)(a) are –  
 (a) a grant-aided school;  
 (b) an independent school.  
 (4) The persons referred to in sub-paragraph (1)(c) are –  
 (a) a teacher at the school;  
 (b) an employee of the Education Authority, other than a teacher at the school;  
 (c) an employee of the Council for Catholic Maintained Schools, other than a teacher at the school;  
 (d) the pupil to whom the record relates;  
 (e) a parent, as defined by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).  
 (5) In this paragraph, “grant-aided school”, “independent school”, “proprietor” and “trustees” have the same meaning as in the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).”
- 195 Page 164, line 7, leave out “with the day on which” and insert “when”

### Schedule 5

196 Page 170, line 21, leave out “In this paragraph” and insert –

“Meaning of “working day”

7 In this Schedule”

### Schedule 6

197 Page 172, line 4, leave out from beginning to end of line 14 and insert –

“Subsections (1), (2) and (6) of section 200 of the 2018 Act have effect for the purposes of this Regulation as they have effect for the purposes of that Act but as if the following were omitted –

- (a) in subsection (1), the reference to subsection (3), and
- (b) in subsection (6), the words following paragraph (d).”

198 Page 180, line 2, leave out sub-paragraph (b) and insert –

“(b) in paragraph 2, for “Member States” substitute “The Secretary of State”;

(c) after that paragraph insert –

“3 The power under paragraph 2 may only be exercised by making regulations under section (*Post-review powers to make provision about representation of data subjects*) of the 2018 Act.”

### Schedule 8

199 Page 184, line 32, at end insert –

“Safeguarding of children and of individuals at risk

3A (1) This condition is met if –

- (a) the processing is necessary for the purposes of –
  - (i) protecting an individual from neglect or physical, mental or emotional harm, or
  - (ii) protecting the physical, mental or emotional well-being of an individual,
- (b) the individual is –
  - (i) aged under 18, or
  - (ii) aged 18 or over and at risk,
- (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
- (d) the processing is necessary for reasons of substantial public interest.

(2) The reasons mentioned in sub-paragraph (1)(c) are –

- (a) in the circumstances, consent to the processing cannot be given by the data subject;
- (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;

- (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).
- (3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual—
- (a) has needs for care and support,
  - (b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and
  - (c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.
- (4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual includes both protection relating to a particular individual and protection relating to a type of individual.”

### Schedule 10

200 Page 187, line 5, at end insert—

*“Safeguarding of children and of individuals at risk*

- 3A (1) This condition is met if—
- (a) the processing is necessary for the purposes of—
    - (i) protecting an individual from neglect or physical, mental or emotional harm, or
    - (ii) protecting the physical, mental or emotional well-being of an individual,
  - (b) the individual is—
    - (i) aged under 18, or
    - (ii) aged 18 or over and at risk,
  - (c) the processing is carried out without the consent of the data subject for one of the reasons listed in sub-paragraph (2), and
  - (d) the processing is necessary for reasons of substantial public interest.
- (2) The reasons mentioned in sub-paragraph (1)(c) are—
- (a) in the circumstances, consent to the processing cannot be given by the data subject;
  - (b) in the circumstances, the controller cannot reasonably be expected to obtain the consent of the data subject to the processing;
  - (c) the processing must be carried out without the consent of the data subject because obtaining the consent of the data subject would prejudice the provision of the protection mentioned in sub-paragraph (1)(a).
- (3) For the purposes of this paragraph, an individual aged 18 or over is “at risk” if the controller has reasonable cause to suspect that the individual—
- (a) has needs for care and support,
  - (b) is experiencing, or at risk of, neglect or physical, mental or emotional harm, and

- (c) as a result of those needs is unable to protect himself or herself against the neglect or harm or the risk of it.
- (4) In sub-paragraph (1)(a), the reference to the protection of an individual or of the well-being of an individual includes both protection relating to a particular individual and protection relating to a type of individual.”

#### Schedule 11

- 201 Page 189, line 20, at end insert “, or  
 (b) information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser.”
- 202 Page 190, line 4, leave out “day falls before the day on which” and insert “time falls before”
- 203 Page 190, line 7, leave out “day” and insert “time”
- 204 Page 190, line 9, leave out “the date of”
- 205 Page 190, line 17, leave out “day” and insert “time”

#### Schedule 12

- 206 Page 193, line 16, after “fees” insert “, charges, penalties”

#### Schedule 13

- 207 Page 194, line 36, leave out from beginning to end of line 4 on page 195
- 208 Page 195, line 4, at end insert—  
 “(2) Section 3(14)(b) does not apply to the reference to personal data in sub-paragraph (1)(h).”

#### Schedule 15

- 209 Page 198, line 13, after “if” insert “a judge of the High Court,”
- 210 Page 198, line 22, at end insert “or is capable of being viewed using equipment on such premises”
- 211 Page 198, line 25, after “if” insert “a judge of the High Court,”
- 212 Page 199, line 34, at end insert—  
 “( ) to require any person on the premises to provide, in an appropriate form, a copy of information capable of being viewed using equipment on the premises which may be evidence of that failure or offence,”
- 213 Page 199, line 36, after “premises” insert “and of any information capable of being viewed using equipment on the premises”
- 214 Page 199, line 46, at end insert—  
 “( ) to require any person on the premises to provide, in an appropriate form, a copy of information capable of being viewed using equipment on the premises which may enable the Commissioner to make such a determination,”

215 Page 200, line 2, after “premises” insert “and of any information capable of being viewed using equipment on the premises”

216 Page 200, line 10, at end insert –

“( ) For the purposes of this paragraph, a copy of information is in an “appropriate form” if –

(a) it can be taken away, and

(b) it is visible and legible or it can readily be made visible and legible.”

217 Page 203, line 4, at end insert –

“( ) references to a judge of the High Court have effect as if they were references to a judge of the Court of Session,”

### Schedule 16

218 Page 203, line 26, leave out “with the day after” and insert “when”

219 Page 204, line 10, leave out “with the day on which” and insert “when”

220 Page 205, line 5, leave out “with the day after the day on which” and insert “when”

221 Page 205, line 37, leave out “controller or processor” and insert “person to whom the penalty notice was given”

### Schedule 17

222 Page 206, line 15, leave out paragraph (a) and insert –

“(a) a relevant health record (see paragraph 1A),”

223 Page 206, line 21, at end insert –

*“Relevant health records*

1A “Relevant health record” means a health record which has been or is to be obtained by a data subject in the exercise of a data subject access right.”

224 Page 207, line 12, at end insert –

“( ) the Department of Justice in Northern Ireland;”

225 Page 207, line 22, leave out sub-paragraph (iii) and insert –

“(iii) Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9));”

226 Page 207, line 32, at end insert –

“( ) Part 5 of the Police Act 1997,”

227 Page 207, line 42, at end insert –

“( ) In relation to the Department of Justice in Northern Ireland, the “relevant functions” are its functions under Part 5 of the Police Act 1997.”

228 Page 207, line 44, after “under” insert “–

(a) Part 5 of the Police Act 1997, or

(b) ”

- 229 Page 208, line 2, at end insert—  
“( ) Part 5 of the Police Act 1997,”

### Schedule 18

- 230 Page 208, line 25, at end insert—

*“Registration Service Act 1953 (c. 37)*

- A1 (1) Section 19AC of the Registration Service Act 1953 (codes of practice) is amended as follows.
- (2) In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 122 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act”.
- (3) In subsection (11), for “section 51(3) of the Data Protection Act 1998” substitute “section 128 of the Data Protection Act 2018”.

*Veterinary Surgeons Act 1966 (c. 36)*

- A2 (1) Section 1A of the Veterinary Surgeons Act 1966 (functions of the Royal College of Veterinary Surgeons as competent authority) is amended as follows.
- (2) In subsection (8)—
- (a) omit “personal data protection legislation in the United Kingdom that implements”,
- (b) for paragraph (a) substitute—  
“(a) the GDPR; and”, and
- (c) in paragraph (b), at the beginning insert “legislation in the United Kingdom that implements”.
- (3) In subsection (9), after “section” insert “—  
“the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

- 231 Page 208, line 31, leave out “162” and insert “(*Applications in respect of urgent notices*)”

- 232 Page 209, line 9, leave out “162” and insert “(*Applications in respect of urgent notices*)”

- 233 Page 209, line 24, leave out “162” and insert “(*Applications in respect of urgent notices*)”

- 234 Page 210, line 4, at end insert—

*“Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22))*

8A The Pharmacy (Northern Ireland) Order 1976 is amended as follows.

8B In article 2(2) (interpretation), omit the definition of “Directive 95/46/EC”.

- 8C In article 8D (European professional card), after paragraph (3) insert—
- “(4) In Schedule 2C, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”
- 8D In article 22A(6) (Directive 2005/36/EC: functions of competent authority etc.), before sub-paragraph (a) insert—
- “(za) “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 8E (1) Schedule 2C (Directive 2005/36/EC: European professional card) is amended as follows.
- (2) In paragraph 8(1) (access to data), for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In paragraph 9 (processing data), omit sub-paragraph (2) (deeming the Society to be the controller for the purposes of Directive 95/46/EC).
- 8F (1) The table in Schedule 2D (functions of the Society under Directive 2005/36/EC) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- 8G (1) Paragraph 2 of Schedule 3 (fitness to practice: disclosure of information) is amended as follows.
- (2) In sub-paragraph (2)(a), after “provision” insert “or the GDPR”.
- (3) For sub-paragraph (3) substitute—
- “(3) In determining for the purposes of sub-paragraph (2)(a) 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 2018 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.”
- (4) After sub-paragraph (4) insert—
- “(5) In this paragraph, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”

*Representation of the People Act 1983 (c. 2)*

- 8H (1) Schedule 2 to the Representation of the People Act 1983 (provisions which may be contained in regulations as to registration etc) is amended as follows.
- (2) In paragraph 1A(5), for “the Data Protection Act 1998” substitute “Parts 5 to 7 of the Data Protection Act 2018 (see section 3(4) and (14) of that Act)”.
- (3) In paragraph 8C(2), for “the Data Protection Act 1998” substitute “Parts 5 to 7 of the Data Protection Act 2018 (see section 3(4) and (14) of that Act)”.
- (4) In paragraph 11A –
- (a) in sub-paragraph (1) for “who are data users to supply data, or documents containing information extracted from data and” substitute “to supply information”, and
  - (b) omit sub-paragraph (2).”

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Page 210, leave out lines 5 to 39 and insert –

*“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 2018 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) In subsection (9), at the end insert –
- ““the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”
- 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 2018 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) In subsection (7), at the end insert –  
“the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”
- 12 In section 49B(7) (Directive 2005/36: designation of competent authority etc.), after “Schedule 4A” insert “–  
“the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 13 In section 55(1) (interpretation), omit the definition of “Directive 95/46/EC”.
- 13A (1) Paragraph 9B of Schedule 1 (incidental powers of the General Medical Council) is amended as follows.
- (2) In sub-paragraph (2)(a), after “enactment” insert “or the GDPR”.
- (3) After sub-paragraph (3) insert –  
“(4) In this paragraph, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”
- 13B (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 –  
“(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 2018 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.”
- (4) After sub-paragraph (13) insert –  
“(14) In this paragraph, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”
- 13C (1) The table in Schedule 4A (functions of the General Medical Council as competent authority under Directive 2005/36) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
- (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

236 Page 211, line 18, leave out from “GDPR” to “(see” in line 19 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

237 Page 211, line 20, at end insert –

“15A In section 36ZA(6) (Directive 2005/36: designation of competent authority etc), after “Schedule 4ZA –” insert –

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

238 Page 211, line 39, leave out from “GDPR” to “(see” in line 40 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

239 Page 211, line 41, at the end insert –

“16A In section 53(1) (interpretation), omit the definition of “Directive 95/46/EC”.

16B (1) The table in Schedule 4ZA (Directive 2005/36: functions of the General Dental Council under section 36ZA(3)) is amended as follows.

(2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

(3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

*Companies Act 1985 (c. 6)*

16C In section 449(11) of the Companies Act 1985 (provision for security of information obtained), for “the Data Protection Act 1998” substitute “the data protection legislation”.

240 Page 212, line 16, leave out from “GDPR” to “(see” in line 17 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

241 Page 212, line 18, at end insert –

*“Access to Health Records Act 1990 (c. 23)*

18A The Access to Health Records Act 1990 is amended as follows.

18B For section 2 substitute –

**“2 Health professionals**

In this Act, “health professional” has the same meaning as in the Data Protection Act 2018 (see section 197 of that Act).”

18C (1) Section 3 (right of access to health records) is amended as follows.

(2) In subsection (2), omit “Subject to subsection (4) below;”.

(3) In subsection (4), omit from “other than the following” to the end.”

**242** Page 213, line 2, at end insert—

*“Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5))*

21A (1) Article 90B of the Industrial Relations (Northern Ireland) Order 1992 (prohibition on disclosure of information held by the Labour Relations Agency) is amended as follows.

(2) In paragraph (3), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After paragraph (6) insert—

“(7) In this Article, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

**243** Page 213, line 7, leave out “162” and insert “(*Applications in respect of urgent notices*)”

**244** Page 213, line 20, at end insert “, with the exception of section 62 and paragraphs 13, 15, 16, 18 and 19 of Schedule 15 (which amend other enactments)”

**245** Page 216, line 10, leave out from “data” to “(see” in line 11 and insert “, “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

**246** Page 219, line 15, leave out from “GDPR” to “(see” in line 16 and insert “and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

**247** Page 220, line 7, at end insert—

*“Enterprise Act 2002 (c. 40)*

64A (1) Section 237 of the Enterprise Act 2002 (general restriction on disclosure) is amended as follows.

(2) In subsection (4), for “the Data Protection Act 1998 (c. 29)” 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 2018 (see section 3 of that Act).”

**248** Page 220, line 13, leave out “162” and insert “(*Applications in respect of urgent notices*)”

**249** Page 221, line 21, leave out from “data” to “(see” in line 22 and insert “, “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

**250** Page 222, line 21, at end insert—

*“Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13)*

75A (1) Section 279 of the Mental Health Care and Treatment (Scotland) Act 2003 (information for research) is amended as follows.

(2) In subsection (2), for “research purposes within the meaning given by section 33 of the Data Protection Act 1998 (c. 29) (research, history and statistics)” substitute “purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics)”.

(3) After subsection (9) insert –

“(10) In this section, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

**251** Page 222, line 29, at end insert –

*“Companies (Audit, Investigations and Community Enterprise) Act 2004 (c. 27)*

76A The Companies (Audit, Investigations and Community Enterprise) Act 2004 is amended as follows.

76B (1) Section 15A (disclosure of information by tax authorities) is amended as follows.

(2) In subsection (2) –

- (a) omit “within the meaning of the Data Protection Act 1998”, and
- (b) for “that Act” substitute “the data protection legislation”.

(3) After subsection (7) insert –

“(8) In this section –  
 “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);  
 “personal data” has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”

76C (1) Section 15D (permitted disclosure of information obtained under compulsory powers) is amended as follows.

(2) In subsection (7), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) After subsection (7) insert –

“(8) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

**252** Page 223, line 35, leave out “162” and insert “(*Applications in respect of urgent notices*)”

**253** Page 224, line 32, leave out “162” and insert “(*Applications in respect of urgent notices*)”

**254** Page 225, line 10, at end insert –

“88A(1) Section 264C (provision and disclosure of information about health service products: 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 2018 (see section 3 of that Act).”

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Page 225, line 28, at end insert—

“*Companies Act 2006 (c. 46)*

92A The Companies Act 2006 is amended as follows.

92B In section 458(2) (disclosure of information by tax authorities)—

- (a) for “within the meaning of the Data Protection Act 1998 (c. 29)” substitute “within the meaning of Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act)”, and
- (b) for “that Act” substitute “the data protection legislation”.

92C In section 461(7) (permitted disclosure of information obtained under compulsory powers), for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

92D In section 948(9) (restrictions on disclosure) for “the Data Protection Act 1998 (c. 29)” substitute “the data protection legislation”.

92E In section 1173(1) (minor definitions: general), at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”.

92F In section 1224A(7) (restrictions on disclosure), for “the Data Protection Act 1998” substitute “the data protection legislation”.

92G In section 1253D(3) (restriction on transfer of audit working papers to third countries), for “the Data Protection Act 1998” substitute “the data protection legislation”.

92H In section 1261(1) (minor definitions: Part 42), at the appropriate place insert—

““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”.

92I In section 1262 (index of defined expressions: Part 42), at the appropriate place insert—

“the data protection legislation | section 1261(1)”.

92J In Schedule 8 (index of defined expressions: general), at the appropriate place insert—

“the data protection legislation | section 1173(1)”.

- 256 Page 225, line 38, at end insert –  
“96A(1) Section 45 (information held by HMRC) is amended as follows.  
(2) In subsection (4A), for “section 51(3) of the Data Protection Act 1998” substitute “section 128 of the Data Protection Act 2018”.  
(3) In subsection (4B), for “the Data Protection Act 1998” substitute “the Data Protection Act 2018”.”
- 257 Page 226, line 27, leave out sub-paragraph (2) and insert –  
“( ) In subsection (6), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 122 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act”.”
- 258 Page 230, line 16, at end insert –  
“*Coroners and Justice Act 2009 (c. 25)*  
122A In Schedule 21 of the Coroners and Justice Act 2009 (minor and consequential amendments), omit paragraph 29(3).”
- 259 Page 231, line 29, leave out “162” and insert “(*Applications in respect of urgent notices*)”
- 260 Page 231, line 33, leave out “162” and insert “(*Applications in respect of urgent notices*)”
- 261 Page 232, line 39, after “after “” insert “this”
- 262 Page 238, line 40, leave out “162” and insert “(*Applications in respect of urgent notices*)”
- 263 Page 239, line 38, leave out “162” and insert “(*Applications in respect of urgent notices*)”
- 264 Page 241, line 12, leave out sub-paragraph (2) and insert –  
“( ) In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 122 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act”.”
- 265 Page 241, line 26, leave out sub-paragraph (2) and insert –  
“( ) In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 122 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act”.”
- 266 Page 242, line 1, leave out sub-paragraph (2) and insert –  
“( ) In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 122 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act”.”

- 267** Page 242, line 16, leave out sub-paragraph (2) and insert –
- “( ) In subsection (2), for “issued under section 52B (data-sharing code) of the Data Protection Act 1998” substitute “prepared under section 122 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act”.”
- 268** Page 242, line 40, at end insert –
- “*Additional Learning Needs and Educational Tribunal (Wales) Act 2018 (anaw 2)*
- 186A(1) Section 4 of the Additional Learning Needs and Educational Tribunal (Wales) Act 2018 (additional learning needs code) is amended as follows.
- (2) In the English language text –
- (a) in subsection (9), omit from “and in this subsection” to the end, and
- (b) after subsection (9) insert –
- “(9A) In subsection (9) –
- “data subject” (“*testun y data*”) has the meaning given by section 3(5) of the Data Protection Act 2018;
- “personal data” (“*data personol*”) has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”
- (3) In the Welsh language text –
- (a) in subsection (9), omit from “ac yn yr is-adran hon” to the end, and
- (b) after subsection (9) insert –
- “(9A) Yn is-adran (9) –
- mae i “data personol” yr un ystyr ag a roddir i “personal data” yn Rhannau 5 i 7 o Ddeddf Diogelu Data 2018 (gweler adran 3(2) a (14) o’r Ddeddf honno);
- mae i “testun y data” yr ystyr a roddir i “data subject” gan adran 3(5) o’r Ddeddf honno.”

- 269** Page 243, line 14, at end insert –
- “*Estate Agents (Specific Offences) (No. 2) Order 1991 (S.I. 1991/1091)*
- 187A In the table in the Schedule to the Estate Agents (Specified Offences) (No. 2) Order 1991 (specified offences), at the end insert –

“Data Protection Act 2018	Section 145	False statements made in response to an information notice
	Section ( <i>Destroying or falsifying information and documents etc</i> )	Destroying or falsifying information and documents etc”

270 Page 243, line 22, after “controller”, insert –  
 “(ba) after “in the context of” insert “the activities of”,”

271 Page 243, line 27, after “controller”, insert –  
 “(ba) after “in the context of” insert “the activities of”,”

272 Page 243, line 28, at end insert –

*“Access to Health Records (Northern Ireland) Order 1993 (S.I. 1993/1250 (N.I. 4))*

188A The Access to Health Records (Northern Ireland) Order 1993 is amended as follows.

188B In Article 4 (health professionals), for paragraph (1) substitute –

“(1) In this Order, “health professional” has the same meaning as in the Data Protection Act 2018 (see section 197 of that Act).”

188C In Article 5(4)(a) (fees for access to health records), for “under section 7 of the Data Protection Act 1998” substitute “made by the Department”.

*Channel Tunnel (Miscellaneous Provisions) Order 1994 (S.I. 1994/1405)*

188D In article 4 of the Channel Tunnel (Miscellaneous Provisions) Order 1994 (application of enactments), for paragraphs (2) and (3) substitute –

“(2) For the purposes of section 200 of the Data Protection Act 2018 (“the 2018 Act”), data which is processed in a control zone in Belgium, in connection with the carrying out of frontier controls, by an officer belonging to the United Kingdom is to be treated as processed by a controller established in the United Kingdom in the context of the activities of that establishment (and accordingly the 2018 Act applies in respect of such data).

(3) For the purposes of section 200 of the 2018 Act, data which is processed in a control zone in Belgium, in connection with the carrying out of frontier controls, by an officer belonging to the Kingdom of Belgium is to be treated as processed by a controller established in the Kingdom of Belgium in the context of the activities of that establishment (and accordingly the 2018 Act does not apply in respect of such data).”

*European Primary and Specialist Dental Qualifications Regulations 1998 (S.I. 1998/811)*

188E The European Primary and Specialist Dental Qualifications Regulations 1998 are amended as follows.

188F(1) Regulation 2(1) (interpretation) is amended as follows.

(2) Omit the definition of “Directive 95/46/EC”.

(3) At the appropriate place insert –

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

- 188G(1) The table in Schedule A1 (functions of the GDC under Directive 2005/36) is amended as follows.
- (2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.
  - (3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

*Scottish Parliamentary Corporate Body (Crown Status) Order 1999 (S.I. 1999/677)*

188H For article 7 of the Scottish Parliamentary Corporate Body (Crown Status) Order 1999 substitute –

**“7 Data Protection Act 2018**

- (1) The Parliamentary corporation is to be treated as a Crown body for the purposes of the Data Protection Act 2018 to the extent specified in this article.
- (2) The Parliamentary corporation is to be treated as a government department for the purposes of the following provisions –
  - (a) section 8(d) (lawfulness of processing under the GDPR: public interest etc),
  - (b) section 202 (application to the Crown),
  - (c) paragraph 6 of Schedule 1 (statutory etc and government purposes),
  - (d) paragraph 7 of Schedule 2 (exemptions from the GDPR: functions designed to protect the public etc), and
  - (e) paragraph 8(1)(o) of Schedule 3 (exemptions from the GDPR: health data).
- (3) In the provisions mentioned in paragraph (4) –
  - (a) references to employment by or under the Crown are to be treated as including employment as a member of staff of the Parliamentary corporation, and
  - (b) references to a person in the service of the Crown are to be treated as including a person so employed.
- (4) The provisions are –
  - (a) section 24(3) (exemption for certain data relating to employment under the Crown), and
  - (b) section 202(6) (application of certain provisions to a person in the service of the Crown).
- (5) In this article, references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

*Northern Ireland Assembly Commission (Crown Status) Order 1999 (S.I. 1999/3145)*

188I For article 9 of the Northern Ireland Assembly Commission (Crown Status) Order 1999 substitute—

**“9 Data Protection Act 2018**

- (1) The Commission is to be treated as a Crown body for the purposes of the Data Protection Act 2018 to the extent specified in this article.
- (2) The Commission is to be treated as a government department for the purposes of the following provisions—
  - (a) section 8(d) (lawfulness of processing under the GDPR: public interest etc),
  - (b) section 202 (application to the Crown),
  - (c) paragraph 6 of Schedule 1 (statutory etc and government purposes),
  - (d) paragraph 7 of Schedule 2 (exemptions from the GDPR: functions designed to protect the public etc), and
  - (e) paragraph 8(1)(o) of Schedule 3 (exemptions from the GDPR: health data).
- (3) In the provisions mentioned in paragraph (4)—
  - (a) references to employment by or under the Crown are to be treated as including employment as a member of staff of the Commission, and
  - (b) references to a person in the service of the Crown are to be treated as including a person so employed.
- (4) The provisions are—
  - (a) section 24(3) (exemption for certain data relating to employment under the Crown), and
  - (b) section 202(6) (application of certain provisions to a person in the service of the Crown).
- (5) In this article, references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

*Data Protection (Corporate Finance Exemption) Order 2000 (S.I. 2000/184)*

188J The Data Protection (Corporate Finance Exemption) Order 2000 is revoked.

*Data Protection (Conditions under Paragraph 3 of Part II of Schedule 1) Order 2000 (S.I. 2000/185)*

188K The Data Protection (Conditions under Paragraph 3 of Part II of Schedule 1) Order 2000 is revoked.

*Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186)*

188L The Data Protection (Functions of Designated Authority) Order 2000 is revoked.

*Data Protection (International Co-operation) Order 2000 (S.I. 2000/190)*

188M The Data Protection (International Co-operation) Order 2000 is revoked.

*Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 (S.I. 2000/191)*

188N The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 are revoked.

*Consumer Credit (Credit Reference Agency) Regulations 2000 (S.I. 2000/290)*

188O In the Consumer Credit (Credit Reference Agency) Regulations 2000, regulation 4(1) and Schedule 1 (statement of rights under section 9(3) of the Data Protection Act 1998) are revoked.

*Data Protection (Subject Access Modification) (Health) Order 2000 (S.I. 2000/413)*

188P The Data Protection (Subject Access Modification) (Health) Order 2000 is revoked.

*Data Protection (Subject Access Modification) (Education) Order 2000 (S.I. 2000/414)*

188Q The Data Protection (Subject Access Modification) (Education) Order 2000 is revoked.

*Data Protection (Subject Access Modification) (Social Work) Order 2000 (S.I. 2000/415)*

188R The Data Protection (Subject Access Modification) (Social Work) Order 2000 is revoked.

*Data Protection (Crown Appointments) Order 2000 (S.I. 2000/416)*

188S The Data Protection (Crown Appointments) Order 2000 is revoked.

*Data Protection (Processing of Sensitive Personal Data) Order 2000 (S.I. 2000/417)*

188T The Data Protection (Processing of Sensitive Personal Data) Order 2000 is revoked.

*Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 (S.I. 2000/419)*

188U The Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 is revoked.

*Data Protection (Designated Codes of Practice) (No. 2) Order 2000 (S.I. 2000/1864)*

188V The Data Protection (Designated Codes of Practice) (No. 2) Order 2000 is revoked.

*Representation of the People (England and Wales) Regulations 2001 (S.I. 2001/341)*

188W The Representation of the People (England and Wales) Regulations 2001 are amended as follows.

- 188X In regulation 3(1) (interpretation), at the appropriate places insert –
- ““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;
- ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
- ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.
- 188Y In regulation 26(3)(a) (applications for registration), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188Z In regulation 26A(2)(a) (application for alteration of register in respect of name under section 10ZD), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AA In regulation 32ZA(3)(f) (annual canvass), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AB In regulation 61A (conditions on the use, supply and inspection of absent voter records or lists), for paragraph (a) (but not the final “or”) substitute –
- “(a) Article 89 GDPR purposes;”.
- 188AC(1) Regulation 92(2) (interpretation and application of Part VI etc) is amended as follows.
- (2) After sub-paragraph (b) insert –
- “(ba) “relevant requirement” means the requirement under Article 89 of the GDPR, read with section 19 of the Data Protection Act 2018, that personal data processed for Article 89 GDPR purposes must be subject to appropriate safeguards.”
- (3) Omit sub-paragraphs (c) and (d).
- 188AD In regulation 96(2A)(b)(i) (restriction on use of the full register), for “section 11(3) of the Data Protection Act 1998” substitute “section 123(5) of the Data Protection Act 2018”.
- 188AE In regulation 97(5) and (6) (supply of free copy of full register to the British Library and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188AF In regulation 97A(7) and (8) (supply of free copy of full register to the National Library of Wales and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188AG In regulation 99(6) and (7) (supply of free copy of full register etc to Statistics Board and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

- 188AH In regulation 109A(9) and (10) (supply of free copy of full register to public libraries and local authority archives services and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.
- 188AI In regulation 119(2) (conditions on the use, supply and disclosure of documents open to public inspection), for sub-paragraph (i) (but not the final “or”) substitute –  
“(i) Article 89 GDPR purposes;”.

*Representation of the People (Scotland) Regulations 2001 (S.I. 2001/497)*

- 188AJ The Representation of the People (Scotland) Regulations 2001 are amended as follows.
- 188AK In regulation 3(1) (interpretation), at the appropriate places, insert –  
““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;  
““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;  
““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.
- 188AL In regulation 26(3)(a) (applications for registration), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AM In regulation 26A(2)(a) (application for alteration of register in respect of name under section 10ZD), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AN In regulation 32ZA(3)(f) (annual canvass), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- 188AO In regulation 61(3) (records and lists kept under Schedule 4), for paragraph (a) (but not the final “or”) substitute –  
“(a) Article 89 GDPR purposes;”.
- 188AP In regulation 61A (conditions on the use, supply and inspection of absent voter records or lists), for paragraph (a) (but not the final “or”) substitute –  
“(a) Article 89 GDPR purposes;”.
- 188AQ(1) Regulation 92(2) (interpretation of Part VI etc) is amended as follows.
- (2) After sub-paragraph (b) insert –  
“(ba) “relevant requirement” means the requirement under Article 89 of the GDPR, read with section 19 of the Data Protection Act 2018, that personal data processed for Article 89 GDPR purposes must be subject to appropriate safeguards.”

(3) Omit sub-paragraphs (c) and (d).

188AR In regulation 95(3)(b)(i) (restriction on use of the full register), for “section 11(3) of the Data Protection Act 1998” substitute “section 123(5) of the Data Protection Act 2018”.

188AS In regulation 96(5) and (6) (supply of free copy of full register to the National Library of Scotland and the British Library and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

188AT In regulation 98(6) and (7) (supply of free copy of full register etc to Statistics Board and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

188AU In regulation 108A(9) and (10) (supply of full register to statutory library authorities and local authority archives services and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

188AV In regulation 119(2) (conditions on the use, supply and disclosure of documents open to public inspection), for sub-paragraph (i) (but not the final “or”) substitute—  
 “(i) Article 89 GDPR purposes;”.

*Financial Services and Markets Act 2000 (Disclosure of Confidential Information) Regulations 2001 (S.I. 2001/2188)*

188AW(1) Article 9 of the Financial Services and Markets 2000 (Disclosure of Confidential Information) Regulations 2001 (disclosure by regulators or regulator workers to certain other persons) is amended as follows.

(2) In paragraph (2B), for sub-paragraph (a) substitute—

“(a) the disclosure is made in accordance with Chapter V of the GDPR;”.

(3) After paragraph (5) insert—

“(6) In this article, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

*Nursing and Midwifery Order 2001 (S.I. 2002/253)*

188AX The Nursing and Midwifery Order 2001 is amended as follows.

188AY(1) Article 3 (the Nursing and Midwifery Council and its Committees) is amended as follows.

(2) In paragraph (18), after “enactment” insert “or the GDPR”.

(3) After paragraph (18) insert—

“(19) In this paragraph, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

188AZ(1) Article 25 (the Council’s power to require disclosure of information) is amended as follows.

(2) In paragraph (3), after “enactment” insert “or the GDPR”.

(3) In paragraph (6) –

(a) for “paragraph (5),” substitute “paragraph (3) –”, and

(b) at the appropriate place insert –

““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

188BA In article 39B (European professional card), after paragraph (2) insert –

“(3) For the purposes of Schedule 2B, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”

188BB In article 40(6) (Directive 2005/36/EC: designation of competent authority etc), at the appropriate place insert –

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

188BC(1) Schedule 2B (Directive 2005/36/EC: European professional card) is amended as follows.

(2) In paragraph 8(1) (access to data) for “Directive 95/46/EC” substitute “the GDPR”.

(3) In paragraph 9 (processing data), omit sub-paragraph (2) (deeming the Society to be the controller for the purposes of Directive 95/46/EC).

188BD(1) The table in Schedule 3 (functions of the Council under Directive 2005/36) is amended as follows.

(2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

(3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

188BE In Schedule 4 (interpretation), omit the definition of “Directive 95/46/EC”.

*Electronic Commerce (EC Directive) Regulations 2002 (S.I. 2002/2013)*

188BF Regulation 3 of the Electronic Commerce (EC Directive) Regulations 2002 (exclusions) is amended as follows.

188BG In paragraph (1)(b) for “the Data Protection Directive and the Telecommunications Data Protection Directive” substitute “the GDPR”.

188BH In paragraph (3) –

(a) omit the definitions of “Data Protection Directive” and “Telecommunications Data Protection Directive”, and

(b) at the appropriate place insert –

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

*Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 (S.I. 2002/2905)*

188BI The Data Protection (Processing of Sensitive Personal Data) (Elected Representatives) Order 2002 is revoked.

*Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426)*

188BJ The Privacy and Electronic Communications (EC Directive) Regulations 2003 are amended as follows.

188BK In regulation 2(1) (interpretation), in the definition of “the Information Commissioner” and “the Commissioner”, for “section 6 of the Data Protection Act 1998” substitute “the Data Protection Act 2018”.

188BL(1) Regulation 4 (relationship between these Regulations and the Data Protection Act 1998) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

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

(4) After that sub-paragraph insert –

“(2) In this regulation –

“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“personal data” and “processing” have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (4) and (14) of that Act).”

(3) Regulation 2(2) and (3) (meaning of certain expressions) do not apply for the purposes of this regulation.”

(5) In the heading of that regulation, for “the Data Protection Act 1998” substitute “the data protection legislation”.

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Page 244, line 1, at end insert –

“(d) for “data controller” substitute “controller”, and

(e) after “in the context of” insert “the activities of”.

*Pupils’ Educational Records (Scotland) Regulations 2003 (S.S.I. 2003/581)*

191A The Pupils’ Educational Records (Scotland) Regulations 2003 are amended as follows.

191B(1) Regulation 2 (interpretation) is amended as follows.

(2) Omit the definition of “the 1998 Act”.

(3) At the appropriate place insert –

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

191C(1) Regulation 6 (circumstances where information should not be disclosed) is amended as follows.

(2) After “any information” insert “to the extent that any of the following conditions are satisfied”.

(3) For paragraphs (a) to (c) substitute –

“(aa) the pupil to whom the information relates would have no right of access to the information under the GDPR;

(ab) the information is personal data described in Article 9(1) or 10 of the GDPR (special categories of personal data and personal data relating to criminal convictions and offences);”.

(4) In paragraph (d), for “to the extent that its disclosure” substitute “the disclosure of the information”.

(5) In paragraph (e), for “that” substitute “the information”.

191D In regulation 9 (fees), for paragraph (1) substitute –

“(1A) In complying with a request made under regulation 5(2), the responsible body may only charge a fee where Article 12(5) or Article 15(3) of the GDPR would permit the charging of a fee if the request had been made by the pupil to whom the information relates under Article 15 of the GDPR.

(1B) Where paragraph (1A) permits the charging of a fee, the responsible body may not charge a fee that –

(a) exceeds the cost of supply, or

(b) exceeds any limit in regulations made under section 12 of the Data Protection Act 2018 that would apply if the request had been made by the pupil to whom the information relates under Article 15 of the GDPR.”

*European Parliamentary Elections (Northern Ireland) Regulations 2004 (S.I. 2004/1267)*

191E Schedule 1 to the European Parliamentary Elections (Northern Ireland) Regulations 2004 (European Parliamentary elections rules) is amended as follows.

191F(1) Paragraph 74(1) (interpretation) is amended as follows.

(2) Omit the definitions of “relevant conditions” and “research purposes”.

(3) At the appropriate places insert—

““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

191G In paragraph 77(2)(b) (conditions on the use, supply and disclosure of documents open to public inspection), for “research purposes” substitute “Article 89 GDPR purposes”.

*Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (S.I. 2004/3244)*

191H In regulation 3(1) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, omit “the appropriate limit referred to in section 9A(3) and (4) of the 1998 Act and”.

274 Page 244, line 13, leave out from “GDPR” to “(see” in line 14 and insert “and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

275 Page 246, line 31, leave out from “GDPR” to “(see” in line 32 and insert “and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

276 Page 247, line 40, at end insert—

*“Licensing Act 2003 (Personal Licences) Regulations 2005 (S.I. 2005/41)*

199A(1) Regulation 7 of the Licensing Act 2003 (Personal Licences) Regulations 2005 (application for grant of a personal licence) is amended as follows.

(2) In paragraph (1)(b)—

(a) for paragraph (iii) (but not the final “, and”) substitute—

“(iii) the results of a request made under Article 15 of the GDPR or section 45 of the Data Protection Act 2018 (rights of access by the data subject) to the National Identification Service for information contained in the Police National Computer”, and

(b) in the words following paragraph (iii), omit “search”.

(3) After paragraph (2) insert—

“(3) In this regulation, “the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act).”

*Education (Pupil Information) (England) Regulations 2005 (S.I. 2005/1437)*

199B The Education (Pupil Information) (England) Regulations 2005 are amended as follows.

199C In regulation 3(5) (meaning of educational record) for “section 1(1) of the Data Protection Act 1998” substitute “section 3(4) of the Data Protection Act 2018”.

199D(1) Regulation 5 (disclosure of curricular and educational records) is amended as follows.

(2) In paragraph (4)–

(a) in sub-paragraph (a), for “the Data Protection Act 1998” substitute “the GDPR”, and

(b) in sub-paragraph (b), for “that Act or by virtue of any order made under section 30(2) or section 38(1) of the Act” substitute “the GDPR”.

(3) After paragraph (6) insert–

“(7) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”

277 Page 248, line 37, leave out from “GDPR” to “(see” in line 38 and insert “and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act”

278 Page 249, line 1, at end insert–

*“Register of Judgments, Orders and Fines Regulations 2005 (S.I. 2005/3595)*

200A In regulation 3 of the Register of Judgments, Orders and Fines Regulations 2005 (interpretation)–

(a) for the definition of “data protection principles” substitute–

““data protection principles” means the principles set out in Article 5(1) of the GDPR;”, and

(b) at the appropriate place insert–

““the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act);”.

*Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005 (S.S.I. 2005/494)*

200B The Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005 are amended as follows.

200C(1) Regulation 39 (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 24(1) of the Data Protection Act 2018 (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 99 of the Data Protection Act 2018 (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 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018,
  - (b) on a request under section 45(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 94(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 34(1) of the Data Protection Act 2018, and
    - (c) section 85(1) of that Act;
  - “data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - “the GDPR” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);
  - “personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(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).

*Data Protection (Processing of Sensitive Personal Data) Order 2006 (S.I. 2006/2068)*

- 200D The Data Protection (Processing of Sensitive Personal Data) Order 2006 is revoked.

*National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236)*

- 200E(1) Paragraph 14 of Schedule 1 to the National Assembly for Wales (Representation of the People) Order 2007 (absent voting at Assembly elections: conditions on the use, supply and inspection of absent vote records or lists) is amended as follows.

- (2) The existing text becomes sub-paragraph (1).
- (3) For paragraph (a) of that sub-paragraph (but not the final “or”) substitute—
- “(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”.

- (4) After that sub-paragraph insert—

“(2) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

*Mental Capacity Act 2005 (Loss of Capacity during Research Project) (England) Regulations 2007 (S.I. 2007/679)*

- 200F In regulation 3 of the Mental Capacity Act 2005 (Loss of Capacity during Research Project) (England) Regulations 2007 (research which may be carried out despite a participant’s loss of capacity), for paragraph (b) substitute—

“(b) any material used consists of or includes human cells or human DNA,”.

*National Assembly for Wales Commission (Crown Status) Order 2007 (S.I. 2007/1118)*

- 200G For article 5 of the National Assembly for Wales Commission (Crown Status) Order 2007 substitute—

**“5 Data Protection Act 2018**

- (1) The Assembly Commission is to be treated as a Crown body for the purposes of the Data Protection Act 2018 to the extent specified in this article.
- (2) The Assembly Commission is to be treated as a government department for the purposes of the following provisions—
- (a) section 8(d) (lawfulness of processing under the GDPR: public interest etc),
- (b) section 202 (application to the Crown),
- (c) paragraph 6 of Schedule 1 (statutory etc and government purposes),

- (d) paragraph 7 of Schedule 2 (exemptions from the GDPR: functions designed to protect the public etc), and
  - (e) paragraph 8(1)(o) of Schedule 3 (exemptions from the GDPR: health data).
- (3) In the provisions mentioned in paragraph (4) –
- (a) references to employment by or under the Crown are to be treated as including employment as a member of staff of the Assembly Commission, and
  - (b) references to a person in the service of the Crown are to be treated as including a person so employed.
- (4) The provisions are –
- (a) section 24(3) (exemption for certain data relating to employment under the Crown), and
  - (b) section 202(6) (application of certain provisions to a person in the service of the Crown).
- (5) In this article, references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

*Mental Capacity Act 2005 (Loss of Capacity during Research Project) (Wales) Regulations 2007 (S.I. 2007/837 (W.72))*

- 200H In regulation 3 of the Mental Capacity Act 2005 (Loss of Capacity during Research Project) (Wales) Regulations 2007 (research which may be carried out despite a participant’s loss of capacity) –
- (a) in the English language text, for paragraph (c) substitute –
    - “(c) any material used consists of or includes human cells or human DNA; and”, and
  - (b) in the Welsh language text, for paragraph (c) substitute –
    - “(c) os yw unrhyw ddeunydd a ddefnyddir yn gelloedd dynol neu’n DNA dynol neu yn eu cynnwys; ac”.

*Representation of the People (Absent Voting at Local Elections) (Scotland) Regulations 2007 (S.S.I. 2007/170)*

- 200I (1) Regulation 18 of the Representation of the People (Absent Voting at Local Elections) (Scotland) Regulations 2007 (conditions on the supply and inspection of absent voter records or lists) is amended as follows.
- (2) In paragraph (1), for sub-paragraph (a) (but not the final “or”) substitute –
- “(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”.
- (3) After paragraph (1) insert –
- “(2) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

*Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 (S.S.I. 2007/264)*

- 200J In regulation 5 of the Representation of the People (Post-Local Government Elections Supply and Inspection of Documents) (Scotland) Regulations 2007 (conditions on the use, supply and disclosure of documents open to public inspection) –
- (a) in paragraph (2), for sub-paragraph (i) (but not the final “or”) substitute –
- “(i) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”,  
and
- (b) after paragraph (3) insert –
- “(4) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

*Education (Pupil Records and Reporting) (Transitional) Regulations (Northern Ireland) 2007 (S.R. (N.I.) 2007 No. 43)*

- 200K The Education (Pupil Records and Reporting) (Transitional) Regulations (Northern Ireland) 2007 is amended as follows.
- 200L In regulation 2 (interpretation), at the appropriate place insert –
- ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.
- 200M In regulation 10(2) (duties of Boards of Governors), for “documents which are the subject of an order under section 30(2) of the Data Protection Act 1998” substitute “information to which the pupil to whom the information relates would have no right of access under the GDPR”.

*Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741)*

- 200N In regulation 118 of the Representation of the People (Northern Ireland) Regulations 2008 (conditions on the use, supply and disclosure of documents open to public inspection) –
- (a) in paragraph (2), for “research purposes within the meaning of that term in section 33 of the Data Protection Act 1998” substitute “purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics)”,  
and

(b) after paragraph (3) insert—

“(4) In this regulation, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

*Companies Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2008 (S.I. 2008/3122)*

200O In paragraph 1(c) of the Schedule to the Companies Act 2006 (Extension of Takeover Panel Provisions) (Isle of Man) Order 2008 (modifications with which Chapter 1 of Part 28 of the Companies Act 2006 extends to the Isle of Man), for “the Data Protection Act 1998 (c 29)” substitute “the data protection legislation”.

*Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 (S.I. 2008/3239 (W.286))*

200P The Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 are amended as follows.

200Q In regulation 2(1) (interpretation)—

(a) at the appropriate place in the English language text insert—

““the GDPR” (“y GDPR”) and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);”, and

(b) at the appropriate place in the Welsh language text insert—

“mae i “y GDPR” a chyfeiriadau at Atodlen 2 i Ddeddf Diogelu Data 2018 yr un ystyr ag a roddir i “the GDPR” a chyfeiriadau at yr Atodlen honno yn Rhannau 5 i 7 o’r Ddeddf honno (gweler adran 3(10), (11) a (14) o’r Ddeddf honno);”.

200R(1) Regulation 25 (duty to co-operate by disclosing information as regards relevant persons) is amended as follows.

(2) In paragraph (7)—

(a) in the English language text, at the end insert “or the GDPR”, and

(b) in the Welsh language text, at the end insert “neu’r GDPR”.

(3) For paragraph (8)—

(a) in the English language text substitute—

“(8) In determining for the purposes of paragraph (7) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”, and

(b) in the Welsh language text substitute –

“(8) Wrth benderfynu at ddibenion paragraff (7) a yw datgeliad wedi’i wahardd, mae i’w dybied at ddibenion paragraff 5(2) o Atodlen 2 i Ddeddf Diogelu Data 2018 a pharagraff 3(2) o Atodlen 11 i’r Ddeddf honno (esemptiadau rhag darpariaethau penodol o’r ddeddfwriaeth diogelu data: datgeliadau sy’n ofynnol gan y gyfraith) bod y datgeliad yn ofynnol gan y rheoliad hwn.”

200S(1) Regulation 26 (responsible bodies requesting additional information be disclosed about relevant persons) is amended as follows.

(2) In paragraph (6) –

- (a) in the English language text, at the end insert “or the GDPR”, and
- (b) in the Welsh language text, at the end insert “neu’r GDPR”.

(3) For paragraph (7) –

(a) in the English language text substitute –

“(7) In determining for the purposes of paragraph (6) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”, and

(b) in the Welsh language text substitute –

“(7) Wrth benderfynu at ddibenion paragraff (6) a yw datgeliad wedi’i wahardd, mae i’w dybied at ddibenion paragraff 5(2) o Atodlen 2 i Ddeddf Diogelu Data 2018 a pharagraff 3(2) o Atodlen 11 i’r Ddeddf honno (esemptiadau rhag darpariaethau penodol o’r ddeddfwriaeth diogelu data: datgeliadau sy’n ofynnol gan y gyfraith) bod y datgeliad yn ofynnol gan y rheoliad hwn.”

200T(1) Regulation 29 (occurrence reports) is amended as follows.

(2) In paragraph (3) –

- (a) in the English language text, at the end insert “or the GDPR”, and
- (b) in the Welsh language text, at the end insert “neu’r GDPR”.

(3) For paragraph (4) –

(a) in the English language text substitute –

“(4) In determining for the purposes of paragraph (3) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”, and

(b) in the Welsh language text substitute –

“(4) Wrth benderfynu at ddibenion paragraff (3) a yw datgeliad wedi’i wahardd, mae i’w dybied at ddibenion paragraff 5(2) o Atodlen 2 i Ddeddf Diogelu Data 2018 a pharagraff 3(2) o Atodlen 11 i’r Ddeddf honno (esemptiadau rhag darpariaethau penodol o’r ddeddfwriaeth diogelu data: datgeliadau sy’n ofynnol gan y gyfraith) bod y datgeliad yn ofynnol gan y rheoliad hwn.”

*Energy Order 2003 (Supply of Information) Regulations (Northern Ireland) 2008 (S.R. (N.I.) 2008 No. 3)*

200U(1) Regulation 5 of the Energy Order 2003 (Supply of Information) Regulations (Northern Ireland) 2008 (information whose disclosure would be affected by the application of other legislation) is amended as follows.

(2) In paragraph (3)–

- (a) omit “within the meaning of section 1(1) of the Data Protection Act 1998”, and
- (b) for the words from “where” to the end substitute “if the condition in paragraph (3A) or (3B) is satisfied”.

(3) After paragraph (3) insert –

“(3A) 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 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) 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 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).”

(4) After paragraph (4) insert –

“(5) In this regulation –

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

- (a) Article 5(1) of the GDPR,
- (b) section 34(1) of the Data Protection Act 2018, and
- (c) section 85(1) of that Act;

“the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

*Companies (Disclosure of Address) Regulations 2009 (S.I. 2009/214)*

200V(1) Paragraph 6 of Schedule 2 to the Companies (Disclosure of Address) Regulations 2009 (conditions for permitted disclosure to a credit reference agency) is amended as follows.

- (2) The existing text becomes sub-paragraph (1).
- (3) In paragraph (b) of that sub-paragraph, for sub-paragraph (ii) substitute—
  - “(ii) for the purposes of ensuring that it complies with its data protection obligations;”.
- (4) In paragraph (c) of that sub-paragraph—
  - (a) omit “or” at the end of sub-paragraph (i), and
  - (b) at the end insert “; or
    - (iii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice) or section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”.
- (5) After paragraph (c) of that sub-paragraph insert—
  - “(d) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in paragraph (c)(ii), other than a penalty notice that has been cancelled.”
- (6) After sub-paragraph (1) insert—
  - “(2) In this paragraph, “data protection obligations”, in relation to a credit reference agency, means—
    - (a) where the agency carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);
    - (b) where the agency carries on business in a EEA State other than the United Kingdom, obligations under—
      - (i) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),
      - (ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and
      - (iii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

*Overseas Companies Regulations 2009 (S.I. 2009/1801)*

200W(1) Paragraph 6 of Schedule 2 to the Overseas Companies Regulations 2009 (conditions for permitted disclosure to a credit reference agency) is amended as follows.

- (2) The existing text becomes sub-paragraph (1).

- (3) In paragraph (b) of that sub-paragraph, for sub-paragraph (ii) substitute—
- “(ii) for the purposes of ensuring that it complies with its data protection obligations;”.
- (4) In paragraph (c) of that sub-paragraph—
- (a) omit “or” at the end of sub-paragraph (i), and
- (b) at the end insert “; or
- (iii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice) or section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”.
- (5) After paragraph (c) of that sub-paragraph insert—
- “(d) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in paragraph (c)(ii), other than a penalty notice that has been cancelled.”
- (6) After sub-paragraph (1) insert—
- “(2) In this paragraph, “data protection obligations”, in relation to a credit reference agency, means—
- (a) where the agency carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);
- (b) where the agency carries on business in a EEA State other than the United Kingdom, obligations under—
- (i) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),
- (ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and
- (iii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

*Data Protection (Processing of Sensitive Personal Data) Order 2009 (S.I. 2009/1811)*

200X The Data Protection (Processing of Sensitive Personal Data) Order 2009 is revoked.

*Provision of Services Regulations 2009 (S.I. 2009/2999)*

200Y In regulation 25 of the Provision of Services Regulations 2009 (derogations from the freedom to provide services), for paragraph (d) substitute—

“(d) matters covered by Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

279 Page 249, line 32, at end insert –

*“INSPIRE (Scotland) Regulations 2009 (S.S.I. 2009/440)*

201A(1) Regulation 10 of the INSPIRE (Scotland) 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 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).”, and

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

(3) After paragraph (6) insert –

“(7) In this regulation –

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

(a) Article 5(1) of the GDPR,

(b) section 34(1) of the Data Protection Act 2018, and

(c) section 85(1) of that Act;

“the GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10), (11) and (14) of that Act);

“personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).

(8) 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.”

*Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 (S.R (N.I.) 2009 No. 225)*

201B The Controlled Drugs (Supervision of Management and Use) Regulations (Northern Ireland) 2009 are amended as follows.

201C In regulation 2(2) (interpretation), at the appropriate place insert –

““the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);”.

201D(1) Regulation 25 (duty to co-operate by disclosing information as regards relevant persons) is amended as follows.

(2) In paragraph (7), at the end insert “or the GDPR”.

(3) For paragraph (8) substitute—

“(8) In determining for the purposes of paragraph (7) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”

201E(1) Regulation 26 (responsible bodies requesting additional information be disclosed about relevant persons) is amended as follows.

(2) In paragraph (6), at the end insert “or the GDPR”.

(3) For paragraph (7) substitute—

“(7) In determining for the purposes of paragraph (6) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”

201F(1) Regulation 29 (occurrence reports) is amended as follows.

(2) In paragraph (3), at the end insert “or the GDPR”.

(3) For paragraph (4) substitute—

“(4) In determining for the purposes of paragraph (3) whether disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”

*Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 (S.I. 2010/31)*

201G The Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 are revoked.

*Pharmacy Order 2010 (S.I. 2010/231)*

201H The Pharmacy Order 2010 is amended as follows.

201I In article 3(1) (interpretation), omit the definition of “Directive 95/46/EC”.

201J (1) Article 9 (inspection and enforcement) is amended as follows.

(2) For paragraph (4) substitute –

“(4) If a report that the Council proposes to publish pursuant to paragraph (3) includes personal data, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 of the personal data is required by paragraph (3) of this article.”

(3) After paragraph (4) insert –

“(5) In this article, “personal data” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”

201K In article 33A (European professional card), after paragraph (2) insert –

“(3) In Schedule 2A, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”

201L(1) Article 49 (disclosure of information: general) is amended as follows.

(2) In paragraph (2)(a), after “enactment” insert “or the GDPR”.

(3) For paragraph (3) substitute –

“(3) In determining for the purposes of paragraph (2)(a) 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 2018 and paragraph 3(2) of Schedule 11 (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by paragraph (1) of this article.”

(4) After paragraph (5) insert –

“(6) In this article, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”

201M(1) Article 55 (professional performance assessments) is amended as follows.

(2) In paragraph (5)(a), after “enactment” insert “or the GDPR”.

(3) For paragraph (6) substitute –

“(6) In determining for the purposes of paragraph (5)(a) 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 2018 and paragraph 3(2) of Schedule 11 (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by paragraph (4) of this article.”

(4) After paragraph (8) insert—

“(9) In this article, “the GDPR” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act).”

201N In article 67(6) (Directive 2005/36/EC: designation of competent authority etc.), after sub-paragraph (a) insert—

“(aa) “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

201O(1) Schedule 2A (Directive 2005/36/EC: European professional card) is amended as follows.

(2) In paragraph 8(1) (access to data), for “Directive 95/46/EC” substitute “the GDPR”.

(3) In paragraph 9 (processing data)—

(a) omit sub-paragraph (2) (deeming the Council to be the controller for the purposes of Directive 95/46/EC), and

(b) after sub-paragraph (2) insert—

“(3) In this paragraph, “personal data” has the same meaning as in the Data Protection Act 2018 (see section 3(2) of that Act).”

201P(1) The table in Schedule 3 (Directive 2005/36/EC: designation of competent authority etc.) is amended as follows.

(2) In the entry for Article 56(2), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

(3) In the entry for Article 56a(4), in the second column, for “Directive 95/46/EC” substitute “the GDPR”.

*Data Protection (Monetary Penalties) Order 2010 (S.I. 2010/910)*

201Q The Data Protection (Monetary Penalties) Order 2010 is revoked.

*National Employment Savings Trust Order 2010 (S.I. 2010/917)*

201R The National Employment Savings Trust Order 2010 is amended as follows.

201S In article 2 (interpretation)—

(a) omit the definition of “data” and “personal data”, and

(b) at the appropriate place insert—

““personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

201T(1) Article 10 (disclosure of requested data to the Secretary of State) is amended as follows.

- (2) In paragraph (1) –
  - (a) for “disclosure of data” substitute “disclosure of information”, and
  - (b) for “requested data” substitute “requested information”.
- (3) In paragraph (2) –
  - (a) for “requested data” substitute “requested information”,
  - (b) for “those data are” substitute “the information is”, and
  - (c) for “receive those data” substitute “receive that information”.
- (4) In paragraph (3), for “requested data” substitute “requested information”.
- (5) In paragraph (4), for “requested data” substitute “requested information”.

*Local Elections (Northern Ireland) Order 2010 (S.I. 2010/2977)*

201U(1) Schedule 3 to the Local Elections (Northern Ireland) Order 2010 (access to marked registers and other documents open to public inspection after an election) is amended as follows.

- (2) In paragraph 1(1) (interpretation and general) –
  - (a) omit the definition of “research purposes”, and
  - (b) at the appropriate places insert –
    - ““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;
    - ““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.
- (3) In paragraph 5(3) (restrictions on the use, supply and disclosure of documents open to public inspection), for “research purposes” substitute “Article 89 GDPR purposes”.

*Pupil Information (Wales) Regulations 2011 (S.I. 2011/1942 (W.209))*

201V(1) Regulation 5 of the Pupil Information (Wales) Regulations 2011 (duties of head teacher - educational records) is amended as follows.

- (2) In paragraph (5) –
  - (a) in the English language text, for “documents which are subject to any order under section 30(2) of the Data Protection Act 1998” substitute “information –
    - (a) which the head teacher could not lawfully disclose to the pupil under the GDPR, or
    - (b) to which the pupil would have no right of access under the GDPR.”, and

- (b) in the Welsh language text, for “ddogfennau sy’n ddarostyngedig i unrhyw orchymyn o dan adran 30(2) o Ddeddf Diogelu Data 1998” substitute “wybodaeth—
- (a) na allai’r pennaeth ei datgelu’n gyfreithlon i’r disgybl o dan y GDPR, neu
  - (b) na fyddai gan y disgybl hawl mynediad ati o dan y GDPR.”
- (3) After paragraph (5)—
- (a) in the English language text insert—
 

“(6) In this regulation, “the GDPR” (“*y GDPR*”) means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018.”, and
  - (b) in the Welsh language text insert—
 

“(6) Yn y rheoliad hwn, ystyr “y GDPR” (“*the GDPR*”) yw Rheoliad (EU) 2016/679 Senedd Ewrop a’r Cyngor dyddiedig 27 Ebrill 2016 ar ddiogelu personau naturiol o ran prosesu data personol a rhyddid symud data o’r fath (y Rheoliad Diogelu Data Cyffredinol), fel y’i darllenir ynghyd â Phennod 2 o Ran 2 o Ddeddf Diogelu Data 2018.”

*Debt Arrangement Scheme (Scotland) Regulations 2011 (S.S.I. 2011/141)*

- 201W In Schedule 4 to the Debt Arrangement Scheme (Scotland) Regulations 2011 (payments distributors), omit paragraph 2.

*Police and Crime Commissioner Elections Order 2012 (S.I. 2012/1917)*

- 201X The Police and Crime Commissioner Elections Order 2012 is amended as follows.

- 201Y(1) Schedule 2 (absent voting in Police and Crime Commissioner elections) is amended as follows.

- (2) In paragraph 20 (absent voter lists: supply of copies etc)—
  - (a) in sub-paragraph (8), for paragraph (a) (but not the final “or”) substitute—
 

“(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”, and
  - (b) after sub-paragraph (10) insert—
 

“(11) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

(3) In paragraph 24 (restriction on use of absent voter records or lists or the information contained in them) –

(a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute –

“(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics),”,  
and

(b) after that sub-paragraph insert –

“(4) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

201Z(1) Schedule 10 (access to marked registers and other documents open to public inspection after an election) is amended as follows.

(2) In paragraph 1(2) (interpretation), omit paragraphs (c) and (d) (but not the final “and”).

(3) In paragraph 5 (restriction on use of documents or of information contained in them) –

(a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute –

“(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics),”,  
and

(b) after sub-paragraph (4) insert –

“(5) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

*Data Protection (Processing of Sensitive Personal Data) Order 2012 (S.I. 2012/1978)*

201AA The Data Protection (Processing of Sensitive Personal Data) Order 2012 is revoked.

*Neighbourhood Planning (Referendums) Regulations 2012 (S.I. 2012/2031)*

201AB Schedule 6 to the Neighbourhood Planning (Referendums) Regulations 2012 (registering to vote in a business referendum) is amended as follows.

201AC(1) Paragraph 29(1) (interpretation of Part 8) is amended as follows.

(2) At the appropriate places insert—

““Article 89 GDPR purposes” means the purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”;

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation);”.

(3) For the definition of “relevant conditions” substitute—

““relevant requirement” means the requirement under Article 89 of the GDPR, read with section 19 of the Data Protection Act 2018, that personal data processed for Article 89 GDPR purposes must be subject to appropriate safeguards;”.

(4) Omit the definition of “research purposes”.

201AD In paragraph 32(3)(b)(i), for “section 11(3) of the Data Protection Act 1998” substitute “section 123(5) of the Data Protection Act 2018”.

201AE In paragraph 33(6) and (7) (supply of copy of business voting register to the British Library and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

201AF In paragraph 34(6) and (7) (supply of copy of business voting register to the Office of National Statistics and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

201AG In paragraph 39(8) and (9) (supply of copy of business voting register to public libraries and local authority archives services and restrictions on use), for “research purposes in compliance with the relevant conditions” substitute “Article 89 GDPR purposes in accordance with the relevant requirement”.

201AH In paragraph 45(2) (conditions on the use, supply and disclosure of documents open to public inspection), for paragraph (a) (but not the final “or”) substitute—

“(a) Article 89 GDPR purposes (as defined in paragraph 29),”.

*Controlled Drugs (Supervision of Management and Use) Regulations 2013 (S.I. 2013/373)*

201AI(1) Regulation 20 of the Controlled Drugs (Supervision of Management and Use) Regulations 2013 (information management) is amended as follows.

(2) For paragraph (4) substitute—

“(4) Where a CDAO, a responsible body or someone acting on their behalf is permitted to share information which includes personal data by virtue of a function under these Regulations, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 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 regulation.”

(3) In paragraph (5), after “enactment” insert “or the GDPR”.

(4) After paragraph (6) insert—

“(7) In this regulation, “the GDPR”, “personal data” and references to Schedule 2 to the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (10), (11) and (14) of that Act).”

*Communications Act 2003 (Disclosure of Information) Order 2014 (S.I. 2014/1825)*

201AJ(1) Article 3 of the Communications Act 2003 (Disclosure of Information) Order 2014 (specification of relevant functions) is amended as follows.

(2) The existing text becomes paragraph (1).

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

(4) After that paragraph insert—

“(2) In this article, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”

**280** Page 249, line 36, at end insert—

*“Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 (S.I. 2014/3282)*

202A The Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 is revoked.”

**281** Page 250, line 7, at end insert—

*“Companies (Disclosure of Date of Birth Information) Regulations 2015 (S.I. 2015/1694)*

204A(1) Paragraph 6 of Schedule 2 to the Companies (Disclosure of Date of Birth Information) Regulations 2015 (conditions for permitted disclosure to a credit reference agency) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) In paragraph (b) of that sub-paragraph, for sub-paragraph (ii) substitute—

“(ii) for the purposes of ensuring that it complies with its data protection obligations;”.

- (4) In paragraph (c) of that sub-paragraph –
- (a) omit “or” at the end of sub-paragraph (i), and
  - (b) at the end insert “; or
    - (iii) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice) or section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”.
- (5) After paragraph (c) of that sub-paragraph insert –
- “(d) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in paragraph (c)(ii), other than a penalty notice that has been cancelled.”
- (6) After sub-paragraph (1) insert –
- “(2) In this paragraph, “data protection obligations”, in relation to a credit reference agency, means –
- (a) where the agency carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);
  - (b) where the agency carries on business in a EEA State other than the United Kingdom, obligations under –
    - (i) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),
    - (ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and
    - (iii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

*Small and Medium Sized Business (Credit Information) Regulations 2015 (S.I. 2015/1945)*

- 204B The Small and Medium Sized Business (Credit Information) Regulations 2015 are amended as follows.
- 204C(1) Regulation 12 (criteria for the designation of a credit reference agency) is amended as follows.
- (2) In paragraph (1)(b), for “the Data Protection Act 1998” substitute “the data protection legislation”.
  - (3) After paragraph (2) insert –
    - “(3) In this regulation, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).”
- 204D(1) Regulation 15 (access to and correction of information for individuals and small firms) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Section 13 of the Data Protection Act 2018 (rights of the data subject under the GDPR: obligations of credit reference agencies) applies in respect of a designated credit reference agency which is not a credit reference agency within the meaning of section 145(8) of the Consumer Credit Act 1974 as if it were such an agency.”

(3) After paragraph (3) insert—

“(4) In this regulation, the reference to section 13 of the Data Protection Act 2018 has the same meaning as in Parts 5 to 7 of that Act (see section 3(14) of that Act).”

*European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059)*

204E The European Union (Recognition of Professional Qualifications) Regulations 2015 are amended as follows.

204F(1) Regulation 2(1) (interpretation) is amended as follows.

(2) Omit the definition of “Directive 95/46/EC”.

(3) At the appropriate place insert—

““the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), read with Chapter 2 of Part 2 of the Data Protection Act 2018;”.

204G In regulation 5(5) (functions of competent authorities in the United Kingdom) for “Directives 95/46/EC” substitute “the GDPR and Directive”.

204H In regulation 45(3) (processing and access to data regarding the European Professional Card), for “Directive 95/46/EC” substitute “the GDPR”.

204I In regulation 46(1) (processing and access to data regarding the European Professional Card), for “Directive 95/46/EC” substitute “the GDPR”.

204J In regulation 48(2) (processing and access to data regarding the European Professional Card), omit paragraph (2) (deeming the relevant designated competent authorities to be controllers for the purposes of Directive 95/46/EC).

204K In regulation 66(3) (exchange of information), for “Directives 95/46/EC” substitute “the GDPR and Directive”.

*Scottish Parliament (Elections etc) Order 2015 (S.S.I. 2015/425)*

204L The Scottish Parliament (Elections etc) Order 2015 is amended as follows.

204M(1) Schedule 3 (absent voting) is amended as follows.

- (2) In paragraph 16 (absent voting lists: supply of copies etc) –
- (a) in sub-paragraph (4), for paragraph (a) (but not the final “or”) substitute –
    - “(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”,  
and
  - (b) after sub-paragraph (10) insert –
    - “(11) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

- (3) In paragraph 20 (restriction on use of absent voting lists) –
- (a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute –
    - “(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”,  
and
  - (b) after that sub-paragraph insert –
    - “(4) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

204N(1) Schedule 8 (access to marked registers and other documents open to public inspection after an election) is amended as follows.

- (2) In paragraph 1(2) (interpretation), omit paragraphs (c) and (d) (but not the final “and”).
- (3) In paragraph 5 (restriction on use of documents or of information contained in them) –
- (a) in sub-paragraph (3), for paragraph (a) (but not the final “or”) substitute –
    - “(a) purposes mentioned in Article 89(1) of the GDPR (archiving in the public interest, scientific or historical research and statistics);”,  
and
  - (b) after sub-paragraph (4) insert –
    - “(5) In this paragraph, “the GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).”

*Recall of MPs Act 2015 (Recall Petition) Regulations 2016 (S.I. 2016/295)*

- 204O In paragraph 1(3) of Schedule 3 to the Recall of MPs Act 2015 (Recall Petition) Regulations 2016 (access to marked registers after a petition), omit the definition of “relevant conditions”.

*Register of People with Significant Control Regulations 2016 (S.I. 2016/339)*

- 204P Schedule 4 to the Register of People with Significant Control Regulations 2016 (conditions for permitted disclosure) is amended as follows.

- 204Q(1) Paragraph 6 (disclosure to a credit reference agency) is amended as follows.

- (2) In sub-paragraph (b), for paragraph (ii) (together with the final “; and”) substitute—

“(ii) for the purposes of ensuring that it complies with its data protection obligations;”.

- (3) In sub-paragraph (c)—

- (a) omit “or” at the end of paragraph (ii), and  
(b) at the end insert—

“(iv) section 145 of the Data Protection Act 2018 (false statements made in response to an information notice); or

(v) section (*Destroying or falsifying information and documents etc*) of that Act (destroying or falsifying information and documents etc);”

- (4) After sub-paragraph (c) insert—

“(d) has not been given a penalty notice under section 154 of the Data Protection Act 2018 in circumstances described in sub-paragraph (c)(iii), other than a penalty notice that has been cancelled.”

- 204R In paragraph 12A (disclosure to a credit institution or a financial institution), for sub-paragraph (b) substitute—

“(b) for the purposes of ensuring that it complies with its data protection obligations.”

- 204S(1) In Part 3 (interpretation), after paragraph 13 insert—

“14 In this Schedule, “data protection obligations”, in relation to a credit reference agency, a credit institution or a financial institution, means—

- (a) where the agency or institution carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);  
(b) where the agency or institution carries on business in a EEA State other than the United Kingdom, obligations under—  
(i) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),

- (ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and
- (iii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).”

*Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 (S.I. 2016/696)*

- 204T The Electronic Identification and Trust Services for Electronic Transactions Regulations 2016 are amended as follows.
- 204U In regulation 2(1) (interpretation), omit the definition of “the 1998 Act”.
- 204V In regulation 3(3) (supervision), omit “under the 1998 Act”.
- 204W For Schedule 2 substitute –

#### “SCHEDULE 2

#### INFORMATION COMMISSIONER’S ENFORCEMENT POWERS

##### *Provisions applied for enforcement purposes*

- 1 For the purposes of enforcing these Regulations and the eIDAS Regulation, the following provisions of Parts 5 to 7 of the Data Protection Act 2018 apply with the modifications set out in paragraphs 2 to 24 –
  - (a) section 140 (publication by the Commissioner);
  - (b) section 141 (notices from the Commissioner);
  - (c) section 143 (information notices);
  - (d) section 144 (information notices: restrictions);
  - (e) section 145 (false statements made in response to an information notice);
  - (f) section (*Information orders*) (information orders);
  - (g) section 146 (assessment notices);
  - (h) section (*Destroying or falsifying information and documents etc*) (destroying or falsifying information and documents etc);
  - (i) section 147 (assessment notices: restrictions);
  - (j) section 148 (enforcement notices);
  - (k) section 149 (enforcement notices: supplementary);
  - (l) section 151 (enforcement notices: restrictions);
  - (m) section 152 (enforcement notices: cancellation and variation);
  - (n) section 153 and Schedule 15 (powers of entry and inspection);
  - (o) section 154 and Schedule 16 (penalty notices);
  - (p) section 155(4)(a) (penalty notices: restrictions);
  - (q) section 156 (maximum amount of penalty);
  - (r) section 158 (amount of penalties: supplementary);
  - (s) section 159 (guidance about regulatory action);

- (t) section 160 (approval of first guidance about regulatory action);
- (u) section (*Applications in respect of urgent notices*) (applications in respect of urgent notices);
- (v) section 177 (jurisdiction);”
- (w) section 161 (rights of appeal);
- (x) section 162 (determination of appeals);
- (y) section 179(1), (2), (5), (7) and (12) (regulations and consultation);
- (z) section 189 (penalties for offences);
- (z1) section 190 (prosecution);
- (z2) section 195 (proceedings in the First-tier Tribunal: contempt);
- (z3) section 196 (Tribunal Procedure Rules).

*General modification of references to the Data Protection Act 2018*

- 2 The provisions listed in paragraph 1 have effect as if—
- (a) references to the Data Protection Act 2018 were references to the provisions of that Act as applied by these Regulations;
  - (b) references to a particular provision of that Act were references to that provision as applied by these Regulations.

*Modification of section 143 (information notices)*

- 3 (1) Section 143 has effect as if subsections (9) and (10) were omitted.
- (2) In that section, subsection (1) has effect as if—
- (a) in paragraph (a)—
    - (i) for “controller or processor” there were substituted “trust service provider”;
    - (ii) for “the data protection legislation” there were substituted “the eIDAS Regulation and the EITSET Regulations”;
  - (b) paragraph (b) were omitted.
- (3) In that section, subsection (2) has effect as if paragraph (a) were omitted.

*Modification of section 144 (information notices: restrictions)*

- 4 (1) Section 144 has effect as if subsections (1) and (9) were omitted.
- (2) In that section—
- (a) subsections (3)(b) and (4)(b) have effect as if for “the data protection legislation” there were substituted “the eIDAS Regulation or the EITSET Regulations”;
  - (b) subsection (7)(a) has effect as if for “this Act” there were substituted “section 145 or (*Destroying or falsifying information and documents etc*) or paragraph 15 of Schedule 15”;

- (c) subsection (8) has effect as if for “this Act (other than an offence under section 145)” there were substituted “section (*Destroying or falsifying information and documents etc*) or paragraph 15 of Schedule 15”.

*Modification of section (Information orders) (information orders)*

- 5 Section (*Information orders*)(2)(b) has effect as if for “section 143(2)(b)” there were substituted “section 143(2)”.

*Modification of section 146 (assessment notices)*

- 6 (1) Section 146 has effect as if subsection (10) were omitted.
- (2) In that section—
  - (a) subsection (1) has effect as if—
    - (i) for “controller or processor” (in both places) there were substituted “trust service provider”;
    - (ii) for “the data protection legislation” there were substituted “the eIDAS requirements”;
  - (b) subsection (2) has effect as if paragraphs (g) and (h) were omitted;
  - (c) subsections (7), (8), (8A) and (9) have effect as if for “controller or processor” (in each place) there were substituted “trust service provider”;
  - (d) subsection (8A)(a) has effect as if for “as described in section 148(2) or that an offence under this Act” there were substituted “to comply with the eIDAS requirements or that an offence under section 145 or (*Destroying or falsifying information and documents etc*) or paragraph 15 of Schedule 15”.

*Modification of section 147(assessment notices: restrictions)*

- 7 (1) Section 147 has effect as if subsections (5) and (6) were omitted.
- (2) In that section, subsections (2)(b) and (3)(b) have effect as if for “the data protection legislation” there were substituted “the eIDAS Regulation or the EITSET Regulations”.

*Modification of section 148 (enforcement notices)*

- 8 (1) Section 148 has effect as if subsections (2) to (5) and (7) to (9) were omitted.
- (2) In that section—
  - (a) subsection (1) has effect as if—
    - (i) for “as described in subsection (2), (3), (4) or (5)” there were substituted “to comply with the eIDAS requirements”;
    - (ii) for “sections 149 and 150” there were substituted “section 149”;
  - (b) subsection (6) has effect as if the words “given in reliance on subsection (2), (3) or (5)” were omitted.

*Modification of section 149 (enforcement notices: supplementary)*

- 9 (1) Section 149 has effect as if subsection (3) were omitted.
- (2) In that section, subsection (2) has effect as if the words “in reliance on section 148(2)” and “or distress” were omitted.

*Modification of section 151 (enforcement notices: restrictions)*

- 10 Section 151 has effect as if subsections (1), (2) and (4) were omitted.

*Withdrawal notices*

- 11 The provisions listed in paragraph 1 have effect as if after section 152 there were inserted –

*“Withdrawal notices*

**152A Withdrawal notices**

- (1) The Commissioner may, by written notice (a “withdrawal notice”), withdraw the qualified status from a trust service provider, or the qualified status of a service provided by a trust service provider, if –
  - (a) the Commissioner is satisfied that the trust service provider has failed to comply with an information notice or an enforcement notice, and
  - (b) the condition in subsection (2) or (3) is met.
- (2) The condition in this subsection is met if the period for the trust service provider to appeal against the information notice or enforcement notice has ended without an appeal having been brought.
- (3) The condition in this subsection is met if an appeal against the information notice or enforcement notice has been brought and –
  - (a) the appeal and any further appeal in relation to the notice has been decided or has otherwise ended, and
  - (b) the time for appealing against the result of the appeal or further appeal has ended without another appeal having been brought.
- (4) A withdrawal notice must –
  - (a) state when the withdrawal takes effect, and
  - (b) provide information about the rights of appeal under section 161.”

*Modification of Schedule 15 (powers of entry and inspection)*

- 12 (1) Schedule 15 has effect as if paragraph 3 were omitted.

- (2) Paragraph 1(1) of that Schedule (issue of warrants in connection with non-compliance and offences) has effect as if for paragraph (a) (but not the final “and”) there were substituted –
- “(a) there are reasonable grounds for suspecting that –
- (i) a trust service provider has failed or is failing to comply with the eIDAS requirements, or
  - (ii) an offence under section 145 or (*Destroying or falsifying information and documents etc*) or paragraph 15 of Schedule 15 has been or is being committed.”
- (3) Paragraph 2 of that Schedule (issue of warrants in connection with assessment notices) has effect as if –
- (a) in sub-paragraph (1) and (2), for “controller or processor” there were substituted “trust service provider”;
  - (b) in sub-paragraph (2), for “the data protection legislation” there were substituted “the eIDAS requirements”.
- (4) Paragraph 5 of that Schedule (content of warrants) has effect as if –
- (a) in sub-paragraph (1)(c), for “the processing of personal data” there were substituted “the provision of trust services”;
  - (b) in sub-paragraph (2)(c) –
    - (i) for “controller or processor” there were substituted “trust service provider”;
    - (ii) for “as described in section 148(2)” there were substituted “to comply with the eIDAS requirements”;
  - (c) in sub-paragraph (3)(a) and (c) –
    - (i) for “controller or processor” there were substituted “trust service provider”;
    - (ii) for “the data protection legislation” there were substituted “the eIDAS requirements”.
- (5) Paragraph 11 of that Schedule (privileged communications) has effect as if, in sub-paragraphs (1)(b) and (2)(b), for “the data protection legislation” there were substituted “the eIDAS Regulation or the EITSET Regulations”.

*Modification of section 154 (penalty notices)*

- 13 (1) Section 154 has effect as if subsections (1)(a), (2)(a), (3)(g), (3A) and (5) to (7) were omitted.
- (2) Subsection (2) of that section has effect as if –
- (a) the words “Subject to subsection (3A),” were omitted;
  - (b) in paragraph (b), the words “to the extent that the notice concerns another matter,” were omitted.

- (3) Subsection (3) of that section has effect as if –
- (a) for “controller or processor”, in each place, there were substituted “trust services provider”;
  - (b) in paragraph (c), the words “or distress” were omitted;
  - (c) in paragraph (c), for “data subjects” there were substituted “relying parties”;
  - (d) in paragraph (d), for “section 57, 66, 103 or 107” there were substituted “Article 19(1) of the eIDAS Regulation”.

*Modification of Schedule 16 (penalties)*

- 14 Schedule 16 has effect as if paragraphs 3(2)(b) and 5(2)(b) were omitted.

*Modification of section 156 (maximum amount of penalty)*

- 15 Section 156 has effect as if subsections (1) to (3) and (6) were omitted.

*Modification of section 158 (amount of penalties: supplementary)*

- 16 Section 158 has effect as if –
- (a) in subsection (1), the words “Article 83 of the GDPR and” were omitted;
  - (b) in subsection (2), the words “Article 83 of the GDPR” and “and section 157” were omitted.

*Modification of section 159 (guidance about regulatory action)*

- 17 (1) Section 159 has effect as if subsections (4) and (10) were omitted.
- (2) In that section, subsection (3)(e) has effect as if for “controllers and processors” there were substituted “trust service providers”.

*Modification of section 161 (rights of appeal)*

- 18 (1) Section 161 has effect as if subsection (5) were omitted.
- (2) In that section, subsection (1) has effect as if, after paragraph (c), there were inserted –
- “(ca) a withdrawal notice;”.

*Modification of section 162 (determination of appeals)*

- 19 Section 162 has effect as if subsection (7) were omitted.

*Modification of section 177 (jurisdiction)*

- 20 (1) Section 177 has effect as if subsections (2)(c) and (d) and (3) were omitted.
- (2) Subsection (1) of that section has effect as if for “subsections (3) and (4)” there were substituted “subsection (4)”.

*Modification of section 179 (regulations and consultation)*

- 21 Section 179 has effect as if subsections (3), (4), (6), (8) to (11) and (13) were omitted.

*Modification of section 189 (penalties for offences)*

- 22 (1) Section 189 has effect as if subsections (3) to (5) were omitted.
- (2) In that section –
- (a) subsection (1) has effect as if the words “section 119 or 173 or” were omitted;
  - (b) subsection (2) has effect as if for “section 132, 145, *(Destroying or falsifying information and documents etc)*, 170, 171 or 181” there were substituted “section 145 or *(Destroying or falsifying information and documents etc)*”.

*Modification of section 190 (prosecution)*

- 23 Section 190 has effect as if subsections (3) to (6) were omitted.

*Modification of section 195 (proceedings in the First-tier Tribunal: contempt)*

- 24 Section 195 has effect as if in subsection (1)(a), for subparagraphs (i) and (ii) there were substituted “on an appeal under section 161”.

*Modification of section 196 (Tribunal Procedure Rules)*

- 25 Section 196 has effect as if –
- (a) in subsection (1), for paragraphs (a) and (b) there were substituted “the exercise of the rights of appeal conferred by section 161”;
  - (b) in subsection (2)(a) and (b), for “the processing of personal data” there were substituted “the provision of trust services”.

*Approval of first guidance about regulatory action*

- 26 (1) This paragraph applies if the first guidance produced under section 159(1) of the Data Protection Act 2018 and the first guidance produced under that provision as applied by this Schedule are laid before Parliament as a single document (“the combined guidance”).
- (2) Section 160 of that Act (including that section as applied by this Schedule) has effect as if the references to “the guidance” were references to the combined guidance, except in subsections (2)(b) and (4).
- (3) Nothing in subsection (2)(a) of that section (including as applied by this Schedule) prevents another version of the combined guidance being laid before Parliament.
- (4) Any duty under subsection (2)(b) of that section (including as applied by this Schedule) may be satisfied by producing another version of the combined guidance.

*Interpretation*

- 27 In this Schedule—
- “the eIDAS requirements” means the requirements of Chapter III of the eIDAS Regulation;
  - “the EITSET Regulations” means these Regulations;
  - “withdrawal notice” has the meaning given in section 146A of the Data Protection Act 2018 (as inserted in that Act by this Schedule).”

*Court Files Privileged Access Rules (Northern Ireland) 2016 (S.R. (N.I.) 2016 No. 123)*

- 204X The Court Files Privileged Access Rules (Northern Ireland) 2016 are amended as follows.
- 204Y In rule 5 (information that may released) for “Schedule 1 of the Data Protection Act 1998” substitute “—
- (a) Article 5(1) of the GDPR, and
  - (b) section 34(1) of the Data Protection Act 2018.”
- 204Z In rule 7(2) (provision of information) for “Schedule 1 of the Data Protection Act 1998” substitute “—
- (a) Article 5(1) of the GDPR, and
  - (b) section 34(1) of the Data Protection Act 2018.”

*Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692)*

- 204AA The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 are amended as follows.
- 204AB In regulation 3(1) (interpretation), at the appropriate places insert—
- ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”;
  - ““the GDPR” and references to provisions of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(10), (11) and (14) of that Act);”.
- 204AC In regulation 16(8) (risk assessment by the Treasury and Home Office), for “the Data Protection Act 1998 or any other enactment” substitute “—
- (a) the Data Protection Act 2018 or any other enactment, or
  - (b) the GDPR.”
- 204AD In regulation 17(9) (risk assessment by supervisory authorities), for “the Data Protection Act 1998 or any other enactment” substitute “—
- (a) the Data Protection Act 2018 or any other enactment, or
  - (b) the GDPR.”
- 204AE For regulation 40(9)(c) (record keeping) substitute—
- “(c) “data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
  - (d) “personal data” has the same meaning as in Parts 5 to 7 of that Act (see section 3(2) and (14) of that Act).”

204AF(1) Regulation 41 (data protection) is amended as follows.

- (2) Omit paragraph (2).
- (3) In paragraph (3)(a), after “Regulations” insert “or the GDPR”.
- (4) Omit paragraphs (4) and (5).
- (5) After those paragraphs insert—
  - “(6) Before establishing a business relationship or entering into an occasional transaction with a new customer, as well as providing the customer with the information required under Article 13 of the GDPR (information to be provided where personal data are collected from the data subject), relevant persons must provide the customer with a statement that any personal data received from the customer will be processed only—
    - (a) for the purposes of preventing money laundering or terrorist financing, or
    - (b) as permitted under paragraph (3).
  - (7) In Article 6(1) of the GDPR (lawfulness of processing), the reference in point (e) to processing of personal data that is necessary for the performance of a task carried out in the public interest includes processing of personal data in accordance with these Regulations that is necessary for the prevention of money laundering or terrorist financing.
  - (8) In the case of sensitive processing of personal data for the purposes of the prevention of money laundering or terrorist financing, section 10 of, and Schedule 1 to, the Data Protection Act 2018 make provision about when the processing meets a requirement in Article 9(2) or 10 of the GDPR for authorisation under the law of the United Kingdom (see, for example, paragraphs 9, 10 and 10A of that Schedule).
  - (9) In this regulation—
    - “data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);
    - “personal data” and “processing” have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (4) and (14) of that Act);
    - “sensitive processing” means the processing of personal data described in Article 9(1) or 10 of the GDPR (special categories of personal data and personal data relating to criminal convictions and offences etc).”

204AG(1) Regulation 84 (publication: the Financial Conduct Authority) is amended as follows.

- (2) In paragraph (10), for “the Data Protection Act 1998” substitute “the data protection legislation”.
- (3) For paragraph (11) substitute—
  - “(11) For the purposes of this regulation, “personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

204AH(1) Regulation 85 (publication: the Commissioners) is amended as follows.

(2) In paragraph (9), for “the Data Protection Act 1998” substitute “the data protection legislation”.

(3) For paragraph (10) substitute –

“(10) For the purposes of this regulation, “personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act).”

204AI For regulation 106(a) (general restrictions) substitute –

“(a) a disclosure in contravention of the data protection legislation; or”.

204AJ After paragraph 27 of Schedule 3 (relevant offences) insert –

“27A An offence under the Data Protection Act 2018, apart from an offence under section 173 of that Act.”

*Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (S.I. 2017/694)*

204AK(1) Paragraph 6 of Schedule 5 to the Scottish Partnerships (Register of People with Significant Control) Regulations 2017 (conditions for permitted disclosure to a credit institution or a financial institution) is amended as follows.

(2) The existing text becomes sub-paragraph (1).

(3) For paragraph (b) of that sub-paragraph substitute –

“(b) for the purposes of ensuring that it complies with its data protection obligations.”

(4) After sub-paragraph (1) insert –

“(2) In this paragraph, “data protection obligations”, in relation to a relevant institution, means –

(a) where the institution carries on business in the United Kingdom, obligations under the data protection legislation (as defined in section 3 of the Data Protection Act 2018);

(b) where the institution carries on business in a EEA State other than the United Kingdom, obligations under –

(i) the GDPR (as defined in section 3(10) of the Data Protection Act 2018),

(ii) legislation made in exercise of powers conferred on member States under the GDPR (as so defined), and

(iii) legislation implementing the Law Enforcement Directive (as defined in section 3(12) of the Data Protection Act 2018).

*Data Protection (Charges and Information) Regulations 2018 (S.I. 2018/480)*

- 204AL In regulation 1(2) of the Data Protection (Charges and Information) Regulations 2018 (interpretation), at the appropriate places insert –
- ““data controller” means a person who is a controller for the purposes of Parts 5 to 7 of the Data Protection Act 2018 (see section 3(6) and (14) of that Act);”;
  - ““personal data” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2) and (14) of that Act);”.

*National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018 (S.S.I. 2018/66)*

- 204AM The National Health Service (General Medical Services Contracts) (Scotland) Regulations 2018 are amended as follows.

204AN(1) Regulation 1 (citation and commencement) is amended as follows.

- (2) In paragraph (2), omit “Subject to paragraph (3),”.
- (3) Omit paragraph (3).

204AO In regulation 3(1) (interpretation) –

- (a) omit the definition of “the 1998 Act”,
- (b) at the appropriate place insert –
  - ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”, and
- (c) omit the definition of “GDPR”.

204AP(1) Schedule 6 (other contractual terms) is amended as follows.

- (2) In paragraph 63(2) (interpretation: general), for “the 1998 Act or any directly applicable EU instrument relating to data protection” substitute “–
  - (a) the data protection legislation, or
  - (b) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection.”
- (3) For paragraph 64 (meaning of data controller etc.) substitute –

*“Meaning of controller etc.*

64A For the purposes of this Part –

- “controller” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(6) and (14) of that Act);
- “data protection officer” means a person designated as a data protection officer under the data protection legislation;
- “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2), (4) and (14) of that Act).”

- (4) In paragraph 65(2)(b) (roles, responsibilities and obligations: general), for “data controllers” substitute “controllers”.
- (5) In paragraph 69(2)(a) (processing and access of data), for “the 1998 Act, and any directly applicable EU instrument relating to data protection;” substitute “—
- (i) the data protection legislation, and
  - (ii) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.
- (6) In paragraph 94(4) (variation of a contract: general) —
- (a) omit paragraph (b), and
  - (b) after paragraph (d) (but before the final “and”) insert —
    - “(da) the data protection legislation;
    - (db) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.

*National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 (S.S.I. 2018/67)*

204AQ The National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2018 are amended as follows.

204AR(1) Regulation 1 (citation and commencement) is amended as follows.

(2) In paragraph (2), omit “Subject to paragraph (3),”.

(3) Omit paragraph (3).

204AS In regulation 3(1) (interpretation) —

- (a) omit the definition of “the 1998 Act”, and
- (b) at the appropriate place insert —
  - ““the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);”, and
- (c) omit the definition of “GDPR”.

204AT(1) Schedule 1 (content of agreements) is amended as follows.

(2) In paragraph 34 (interpretation) —

- (a) in sub-paragraph (1) —
  - (i) omit “Subject to sub-paragraph (3),”,
  - (ii) before paragraph (a) insert —
    - “(za) “controller” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(6) and (14) of that Act);
    - (zb) “data protection officer” means a person designated as a data protection officer under the data protection legislation;”, and

- (iii) for paragraph (d) substitute—
    - “(e) “personal data” and “processing” have the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(2), (4) and (14) of that Act).”,
  - (b) omit sub-paragraphs (2) and (3),
  - (c) in sub-paragraph (4), for “the 1998 Act and any directly applicable EU instrument relating to data protection” substitute “—
    - (a) the data protection legislation, or
    - (b) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection.”, and
  - (d) in sub-paragraph (6)(b), for “data controllers” substitute “controllers”.
- (3) In paragraph 37(2)(a) (processing and access of data), for “the 1998 Act, and any directly applicable EU instrument relating to data protection;” substitute “—
- (i) the data protection legislation, and
  - (ii) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.
- (4) In paragraph 61(3) (variation of agreement: general)—
- (a) omit paragraph (b), and
  - (b) after paragraph (d) (but before the final “and”) insert—
    - “(da) the data protection legislation;
    - (db) any directly applicable EU legislation which is not part of the data protection legislation but which relates to data protection;”.

### PART 3

#### MODIFICATIONS

##### *Introduction*

- 204AU(1) Unless the context otherwise requires, legislation described in sub-paragraph (2) has effect on and after the day on which this Part of this Schedule comes into force as if it were modified in accordance with this Part of this Schedule.
- (2) That legislation is—
- (a) subordinate legislation made before the day on which this Part of this Schedule comes into force;
  - (b) primary legislation that is passed or made before the end of the Session in which this Act is passed.
- (3) In this Part of this Schedule—
- “primary legislation” has the meaning given in section 204(7);
  - “references” includes any references, however expressed.

*General modifications*

- 204AV(1)References to a particular provision of, or made under, the Data Protection Act 1998 have effect as references to the equivalent provision or provisions of, or made under, the data protection legislation.
- (2) Other references to the Data Protection Act 1998 have effect as references to the data protection legislation.
- (3) References to disclosure, use or other processing of information that is prohibited or restricted by an enactment which include disclosure, use or other processing of information that is prohibited or restricted by the Data Protection Act 1998 have effect as if they included disclosure, use or other processing of information that is prohibited or restricted by the GDPR or the applied GDPR.

*Specific modification of references to terms used in the Data Protection Act 1998*

- 204AW(1)References to personal data, and to the processing of such data, as defined in the Data Protection Act 1998, have effect as references to personal data, and to the processing of such data, as defined for the purposes of Parts 5 to 7 of this Act (see section 3(2), (4) and (14)).
- (2) References to processing as defined in the Data Protection Act 1998, in relation to information, have effect as references to processing as defined in section 3(4).
- (3) References to a data subject as defined in the Data Protection Act 1998 have effect as references to a data subject as defined in section 3(5).
- (4) References to a data controller as defined in the Data Protection Act 1998 have effect as references to a controller as defined for the purposes of Parts 5 to 7 of this Act (see section 3(6) and (14)).
- (5) References to the data protection principles set out in the Data Protection Act 1998 have effect as references to the principles set out in—
- (a) Article 5(1) of the GDPR and the applied GDPR, and
- (b) sections 34(1) and 85(1) of this Act.
- (6) References to direct marketing as defined in section 11 of the Data Protection Act 1998 have effect as references to direct marketing as defined in section 123 of this Act.
- (7) References to a health professional within the meaning of section 69(1) of the Data Protection Act 1998 have effect as references to a health professional within the meaning of section 197 of this Act.
- (8) References to a health record within the meaning of section 68(2) of the Data Protection Act 1998 have effect as references to a health record within the meaning of section 198 of this Act.

## PART 4

## SUPPLEMENTARY

*Definitions*

- 204AX Section 3(14) does not apply to this Schedule.”

### After Schedule 18

282 Insert the following new Schedule –

#### “TRANSITIONAL PROVISION ETC

##### PART 1

##### GENERAL

#### *Interpretation*

- 1 (1) In this Schedule –
  - “the 1984 Act” means the Data Protection Act 1984;
  - “the 1998 Act” means the Data Protection Act 1998;
  - “the 2014 Regulations” means the Criminal Justice and Data Protection (Protocol No. 36) Regulations 2014 (S.I. 2014/3141);
  - “data controller” has the same meaning as in the 1998 Act (see section 1 of that Act);
  - “the old data protection principles” means the principles set out in –
    - (a) Part 1 of Schedule 1 to the 1998 Act, and
    - (b) regulation 30 of the 2014 Regulations.
- (2) A provision of the 1998 Act that has effect by virtue of this Schedule is not, by virtue of that, part of the data protection legislation (as defined in section 3).

##### PART 2

##### RIGHTS OF DATA SUBJECTS

#### *Right of access to personal data under the 1998 Act*

- 2 (1) The repeal of sections 7 to 9A of the 1998 Act (right of access to personal data) does not affect the application of those sections after the relevant time in a case in which a data controller received a request under section 7 of that Act (right of access to personal data) before the relevant time.
- (2) The repeal of sections 7 and 8 of the 1998 Act and the revocation of regulation 44 of the 2014 Regulations (which applies those sections with modifications) do not affect the application of those sections and that regulation after the relevant time in a case in which a UK competent authority received a request under section 7 of the 1998 Act (as applied by that regulation) before the relevant time.
- (3) The revocation of the relevant regulations, or their amendment by Schedule 18 to this Act, and the repeals and revocation mentioned in sub-paragraphs (1) and (2), do not affect the application of the relevant regulations after the relevant time in a case described in those sub-paragraphs.
- (4) In this paragraph –
  - “the relevant regulations” means –
    - (a) the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 (S.I. 2000/191);

- (b) regulation 4 of, and Schedule 1 to, the Consumer Credit (Credit Reference Agency) Regulations 2000 (S.I. 2000/290);
- (c) regulation 3 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (S.I. 2004/3244);

“the relevant time” means the time when the repeal of section 7 of the 1998 Act comes into force;

“UK competent authority” has the same meaning as in Part 4 of the 2014 Regulations (see regulation 27 of those Regulations).

*Right to prevent processing likely to cause damage or distress under the 1998 Act*

- 3 (1) The repeal of section 10 of the 1998 Act (right to prevent processing likely to cause damage or distress) does not affect the application of that section after the relevant time in a case in which an individual gave notice in writing to a data controller under that section before the relevant time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 10 of the 1998 Act comes into force.

*Right to prevent processing for purposes of direct marketing under the 1998 Act*

- 4 (1) The repeal of section 11 of the 1998 Act (right to prevent processing for purposes of direct marketing) does not affect the application of that section after the relevant time in a case in which an individual gave notice in writing to a data controller under that section before the relevant time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 11 of the 1998 Act comes into force.

*Automated processing under the 1998 Act*

- 5 (1) The repeal of section 12 of the 1998 Act (rights in relation to automated decision-taking) does not affect the application of that section after the relevant time in relation to a decision taken by a person before that time if—
- (a) in taking the decision the person failed to comply with section 12(1) of the 1998 Act, or
  - (b) at the relevant time—
    - (i) the person had not taken all of the steps required under section 12(2) or (3) of the 1998 Act, or
    - (ii) the period specified in section 12(2)(b) of the 1998 Act (for an individual to require a person to reconsider a decision) had not expired.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 12 of the 1998 Act comes into force.

*Compensation for contravention of the 1998 Act or Part 4 of the 2014 Regulations*

- 6 (1) The repeal of section 13 of the 1998 Act (compensation for failure to comply with certain requirements) does not affect the application of that section after the relevant time in relation to damage or distress suffered at any time by reason of an act or omission before the relevant time.

- (2) The revocation of regulation 45 of the 2014 Regulations (right to compensation) does not affect the application of that regulation after the relevant time in relation to damage or distress suffered at any time by reason of an act or omission before the relevant time.
- (3) “The relevant time” means –
  - (a) in sub-paragraph (1), the time when the repeal of section 13 of the 1998 Act comes into force;
  - (b) in sub-paragraph (2), the time when the revocation of regulation 45 of the 2014 Regulation comes into force.

*Rectification, blocking, erasure and destruction under the 1998 Act*

- 7 (1) The repeal of section 14(1) to (3) and (6) of the 1998 Act (rectification, blocking, erasure and destruction of inaccurate personal data) does not affect the application of those provisions after the relevant time in a case in which an application was made under subsection (1) of that section before the relevant time.
- (2) The repeal of section 14(4) to (6) of the 1998 Act (rectification, blocking, erasure and destruction: risk of further contravention in circumstances entitling data subject to compensation under section 13 of the 1998 Act) does not affect the application of those provisions after the relevant time in a case in which an application was made under subsection (4) of that section before the relevant time.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 14 of the 1998 Act comes into force.

*Jurisdiction and procedure under the 1998 Act*

- 8 The repeal of section 15 of the 1998 Act (jurisdiction and procedure) does not affect the application of that section in connection with sections 7 to 14 of the 1998 Act as they have effect by virtue of this Schedule.

*Exemptions under the 1998 Act*

- 9 (1) The repeal of Part 4 of the 1998 Act (exemptions) does not affect the application of that Part after the relevant time in connection with a provision of Part 2 of the 1998 Act as it has effect after that time by virtue of paragraphs 2 to 7 of this Schedule.
- (2) The revocation of the relevant Orders, and the repeal mentioned in sub-paragraph (1), do not affect the application of the relevant Orders after the relevant time in connection with a provision of Part 2 of the 1998 Act as it has effect as described in sub-paragraph (1).
- (3) In this paragraph –
 

“the relevant Orders” means –

  - (a) the Data Protection (Corporate Finance Exemption) Order 2000 (S.I. 2000/184);
  - (b) the Data Protection (Subject Access Modification) (Health) Order 2000 (S.I. 2000/413);
  - (c) the Data Protection (Subject Access Modification) (Education) Order 2000 (S.I. 2000/414);
  - (d) the Data Protection (Subject Access Modification) (Social Work) Order 2000 (S.I. 2000/415);

- (e) the Data Protection (Crown Appointments) Order 2000 (S.I. 2000/416);
- (f) Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 (S.I. 2000/419);
- (g) Data Protection (Designated Codes of Practice) (No. 2) Order 2000 (S.I. 2000/1864);

“the relevant time” means the time when the repeal of the provision of Part 2 of the 1998 Act in question comes into force.

- (4) As regards certificates issued under section 28(2) of the 1998 Act, see Part 5 of this Schedule.

*Prohibition by this Act of requirement to produce relevant records*

- 10 (1) In Schedule 17 to this Act, references to a record obtained in the exercise of a data subject access right include a record obtained at any time in the exercise of a right under section 7 of the 1998 Act.
- (2) In section 177 of this Act, references to a “relevant record” include a record which does not fall within the definition in Schedule 17 to this Act (read with sub-paragraph (1)) but which, immediately before the relevant time, was a “relevant record” for the purposes of section 56 of the 1998 Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 56 of the 1998 Act comes into force.

*Avoidance under this Act of certain contractual terms relating to health records*

- 11 In section 178 of this Act, references to a record obtained in the exercise of a data subject access right include a record obtained at any time in the exercise of a right under section 7 of the 1998 Act.

PART 3

THE GDPR AND PART 2 OF THIS ACT

*Exemptions from the GDPR: restrictions of rules in Articles 13 to 15 of the GDPR*

- 12 In paragraph 20(2) of Schedule 2 to this Act (self-incrimination), the reference to an offence under this Act includes an offence under the 1998 Act or the 1984 Act.

*Manual unstructured data held by FOI public authorities*

- 13 Until the first regulations under section 24(8) of this Act come into force, “the appropriate maximum” for the purposes of that section is –
- (a) where the controller is a public authority listed in Part 1 of Schedule 1 to the Freedom of Information Act 2000, £600, and
  - (b) otherwise, £450.

## PART 4

## LAW ENFORCEMENT AND INTELLIGENCE SERVICES PROCESSING

*Logging*

- 14 (1) In relation to an automated processing system set up before 6 May 2016, subsections (1) to (3) of section 62 of this Act do not apply if and to the extent that compliance with them would involve disproportionate effort.
- (2) Sub-paragraph (1) ceases to have effect at the beginning of 6 May 2023.

*Regulation 50 of the 2014 Regulations (disapplication of the 1998 Act)*

- 15 Nothing in this Schedule, read with the revocation of regulation 50 of the 2014 Regulations, has the effect of applying a provision of the 1998 Act to the processing of personal data to which Part 4 of the 2014 Regulations applies in a case in which that provision did not apply before the revocation of that regulation.

*Maximum fee for data subject access requests to intelligence services*

- 16 Until the first regulations under section 94(4)(b) of this Act come into force, the maximum amount of a fee that may be required by a controller under that section is £10.

## PART 5

## NATIONAL SECURITY CERTIFICATES

*National security certificates: processing of personal data under the 1998 Act*

- 17 (1) The repeal of section 28(2) to (12) of the 1998 Act does not affect the application of those provisions after the relevant time with respect to the processing of personal data to which the 1998 Act (including as it has effect by virtue of this Schedule) applies.
- (2) A certificate issued under section 28(2) of the 1998 Act continues to have effect after the relevant time with respect to the processing of personal data to which the 1998 Act (including as it has effect by virtue of this Schedule) applies.
- (3) Where a certificate continues to have effect under sub-paragraph (2) after the relevant time, it may be revoked or quashed in accordance with section 28 of the 1998 Act after the relevant time.
- (4) In this paragraph, “the relevant time” means the time when the repeal of section 28 of the 1998 Act comes into force.

*National security certificates: processing of personal data under the 2018 Act*

- 18 (1) This paragraph applies to a certificate issued under section 28(2) of the 1998 Act (an “old certificate”) which has effect immediately before the relevant time.

- (2) If and to the extent that the old certificate provides protection with respect to personal data which corresponds to protection that could be provided by a certificate issued under section 27, 79 or 111 of this Act, the old certificate also has effect to that extent after the relevant time as if—
- (a) it were a certificate issued under one or more of sections 27, 79 and 111 (as the case may be),
  - (b) it provided protection in respect of that personal data in relation to the corresponding provisions of this Act or the applied GDPR, and
  - (c) where it has effect as a certificate issued under section 79, it certified that each restriction in question is a necessary and proportionate measure to protect national security.
- (3) Where an old certificate also has effect as if it were a certificate issued under one or more of sections 27, 79 and 111, that section has, or those sections have, effect accordingly in relation to the certificate.
- (4) Where an old certificate has an extended effect because of sub-paragraph (2), section 129 of this Act does not apply in relation to it.
- (5) An old certificate that has an extended effect because of sub-paragraph (2) provides protection only with respect to the processing of personal data that occurs during the period of 1 year beginning with the relevant time (and a Minister of the Crown may curtail that protection by wholly or partly revoking the old certificate).
- (6) For the purposes of this paragraph—
- (a) a reference to the protection provided by a certificate issued under—
    - (i) section 28(2) of the 1998 Act, or
    - (ii) section 27, 79 or 111 of this Act,
 is a reference to the effect of the evidence that is provided by the certificate;
  - (b) protection provided by a certificate under section 28(2) of the 1998 Act is to be regarded as corresponding to protection that could be provided by a certificate under section 27, 79 or 111 of this Act where, in respect of provision in the 1998 Act to which the certificate under section 28(2) relates, there is corresponding provision in this Act or the applied GDPR to which a certificate under section 27, 79 or 111 could relate.
- (7) In this paragraph, “the relevant time” means the time when the repeal of section 28 of the 1998 Act comes into force.

## PART 6

### THE INFORMATION COMMISSIONER

#### *Appointment etc*

- 19 (1) On and after the relevant day, the individual who was the Commissioner immediately before that day—
- (a) continues to be the Commissioner,
  - (b) is to be treated as having been appointed under Schedule 12 to this Act, and

- (c) holds office for the period –
  - (i) beginning with the relevant day, and
  - (ii) lasting for 7 years less a period equal to the individual’s pre-commencement term.
- (2) On and after the relevant day, a resolution passed by the House of Commons for the purposes of paragraph 3 of Schedule 5 to the 1998 Act (salary and pension of Commissioner), and not superseded before that day, is to be treated as having been passed for the purposes of paragraph 4 of Schedule 12 to this Act.
- (3) In this paragraph –
  - “pre-commencement term”, in relation to an individual, means the period during which the individual was the Commissioner before the relevant day;
  - “the relevant day” means the day on which Schedule 12 to this Act comes into force.

#### *Accounts*

- 20 (1) The repeal of paragraph 10 of Schedule 5 to the 1998 Act does not affect the duties of the Commissioner and the Comptroller and Auditor General under that paragraph in respect of the Commissioner’s statement of account for the financial year beginning with 1 April 2017.
- (2) The Commissioner’s duty under paragraph 11 of Schedule 12 to this Act to prepare a statement of account for each financial year includes a duty to do so for the financial year beginning with 1 April 2018.

#### *Annual report*

- 21 (1) The repeal of section 52(1) of the 1998 Act (annual report) does not affect the Commissioner’s duty under that subsection to produce a general report on the exercise of the Commissioner’s functions under the 1998 Act during the period of 1 year beginning with 1 April 2017 and to lay it before Parliament.
- (2) The repeal of section 49 of the Freedom of Information Act 2000 (annual report) does not affect the Commissioner’s duty under that section to produce a general report on the exercise of the Commissioner’s functions under that Act during the period of 1 year beginning with 1 April 2017 and to lay it before Parliament.
- (3) The first report produced by the Commissioner under section 138 of this Act must relate to the period of 1 year beginning with 1 April 2018.

#### *Fees etc received by the Commissioner*

- 22 (1) The repeal of Schedule 5 to the 1998 Act (Information Commissioner) does not affect the application of paragraph 9 of that Schedule after the relevant time to amounts received by the Commissioner before the relevant time.
- (2) In this paragraph, “the relevant time” means the time when the repeal of Schedule 5 to the 1998 Act comes into force.
- 23 Paragraph 10 of Schedule 12 to this Act applies only to amounts received by the Commissioner after the time when that Schedule comes into force.

*Functions in connection with the Data Protection Convention*

- 24 (1) The repeal of section 54(2) of the 1998 Act (functions to be discharged by the Commissioner for the purposes of Article 13 of the Data Protection Convention), and the revocation of the Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186), do not affect the application of articles 1 to 5 of that Order after the relevant time in relation to a request described in those articles which was made before that time.
- (2) The references in paragraph 9 of Schedule 13 to this Act (Data Protection Convention: restrictions on use of information) to requests made or received by the Commissioner under paragraph 6 or 7 of that Schedule include a request made or received by the Commissioner under article 3 or 4 of the Data Protection (Functions of Designated Authority) Order 2000 (S.I. 2000/186).
- (3) The repeal of section 54(7) of the 1998 Act (duty to notify the European Commission of certain approvals and authorisations) does not affect the application of that provision after the relevant time in relation to an approval or authorisation granted before the relevant time.
- (4) In this paragraph, “the relevant time” means the time when the repeal of section 54 of the 1998 Act comes into force.

*Co-operation with the European Commission: transfers of personal data outside the EEA*

- 25 (1) The repeal of section 54(3) of the 1998 Act (co-operation by the Commissioner with the European Commission etc), and the revocation of the Data Protection (International Co-operation) Order 2000 (S.I. 2000/190), do not affect the application of articles 1 to 4 of that Order after the relevant time in relation to transfers that took place before the relevant time.
- (2) In this paragraph—  
“the relevant time” means the time when the repeal of section 54 of the 1998 Act comes into force;  
“transfer” has the meaning given in article 2 of the Data Protection (International Co-operation) Order 2000 (S.I. 2000/190).

*Charges payable to the Commissioner by controllers*

- 26 (1) The Data Protection (Charges and Information) Regulations 2018 (S.I. 2018/480) have effect after the relevant time (until revoked) as if they were made under section 136 of this Act.
- (2) In this paragraph, “the relevant time” means the time when section 136 of this Act comes into force.

*Requests for assessment*

- 27 (1) The repeal of section 42 of the 1998 Act (requests for assessment) does not affect the application of that section after the relevant time in a case in which the Commissioner received a request under that section before the relevant time, subject to sub-paragraph (2).
- (2) The Commissioner is only required to make an assessment of acts and omissions that took place before the relevant time.

- (3) In this paragraph, “the relevant time” means the time when the repeal of section 42 of the 1998 Act comes into force.

*Codes of practice*

- 28 (1) The repeal of section 52E of the 1998 Act (effect of codes of practice) does not affect the application of that section after the relevant time in relation to legal proceedings or to the exercise of the Commissioner’s functions under the 1998 Act as it has effect by virtue of this Schedule.
- (2) In section 52E of the 1998 Act, as it has effect by virtue of this paragraph, the references to the 1998 Act include that Act as it has effect by virtue of this Schedule.
- (3) For the purposes of subsection (3) of that section, as it has effect by virtue of this paragraph, the data-sharing code and direct marketing code in force immediately before the relevant time are to be treated as having continued in force after that time.
- (4) In this paragraph –  
     “the data-sharing code” and “the direct marketing code” mean the codes respectively prepared under sections 52A and 52AA of the 1998 Act and issued under section 52B(5) of that Act;  
     “the relevant time” means the time when the repeal of section 52E of the 1998 Act comes into force.

PART 7

ENFORCEMENT ETC UNDER THE 1998 ACT

*Interpretation of this Part*

- 29 (1) In this Part of this Schedule, references to contravention of the sixth data protection principle sections are to relevant contravention of any of sections 7, 10, 11 or 12 of the 1998 Act, as they continue to have effect by virtue of this Schedule after their repeal (and references to compliance with the sixth data protection principle sections are to be read accordingly).
- (2) In sub-paragraph (1), “relevant contravention” means contravention in a manner described in paragraph 8 of Part 2 of Schedule 1 to the 1998 Act (sixth data protection principle).

*Information notices*

- 30 (1) The repeal of section 43 of the 1998 Act (information notices) does not affect the application of that section after the relevant time in a case in which –
- (a) the Commissioner served a notice under that section before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner requires information after the relevant time for the purposes of –
    - (i) responding to a request made under section 42 of the 1998 Act before that time,
    - (ii) determining whether a data controller complied with the old data protection principles before that time, or

- (iii) determining whether a data controller complied with the sixth data protection principle sections after that time.
- (2) In section 43 of the 1998 Act, as it has effect by virtue of this paragraph—
- (a) the reference to an offence under section 47 of the 1998 Act includes an offence under section 143 of this Act, and
  - (b) the references to an offence under the 1998 Act include an offence under this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 43 of the 1998 Act comes into force.

#### *Special information notices*

- 31 (1) The repeal of section 44 of the 1998 Act (special information notices) does not affect the application of that section after the relevant time in a case in which—
- (a) the Commissioner served a notice under that section before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner requires information after the relevant time for the purposes of—
    - (i) responding to a request made under section 42 of the 1998 Act before that time, or
    - (ii) ascertaining whether section 44(2)(a) or (b) of the 1998 Act was satisfied before that time.
- (2) In section 44 of the 1998 Act, as it has effect by virtue of this paragraph—
- (a) the reference to an offence under section 47 of the 1998 Act includes an offence under section 143 of this Act, and
  - (b) the references to an offence under the 1998 Act include an offence under this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of section 44 of the 1998 Act comes into force.

#### *Assessment notices*

- 32 (1) The repeal of sections 41A and 41B of the 1998 Act (assessment notices) does not affect the application of those sections after the relevant time in a case in which—
- (a) the Commissioner served a notice under section 41A of the 1998 Act before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner considers it appropriate, after the relevant time, to investigate—
    - (i) whether a data controller complied with the old data protection principles before that time, or
    - (ii) whether a data controller complied with the sixth data protection principle sections after that time.
- (2) The revocation of the Data Protection (Assessment Notices) (Designation of National Health Service Bodies) Order 2014 (S.I. 2014/3282), and the repeals mentioned in sub-paragraph (1), do not affect the application of that Order in a case described in sub-paragraph (1).

- (3) Sub-paragraph (1) does not enable the Secretary of State, after the relevant time, to make an order under section 41A(2)(b) or (c) of the 1998 Act (data controllers on whom an assessment notice may be served) designating a public authority or person for the purposes of that section.
- (4) Section 41A of the 1998 Act, as it has effect by virtue of sub-paragraph (1), has effect as if subsections (8) and (11) (duty to review designation orders) were omitted.
- (5) The repeal of section 41C of the 1998 Act (code of practice about assessment notice) does not affect the application, after the relevant time, of the code issued under that section and in force immediately before the relevant time in relation to the exercise of the Commissioner's functions under and in connection with section 41A of the 1998 Act, as it has effect by virtue of sub-paragraph (1).
- (6) In this paragraph, "the relevant time" means the time when the repeal of section 41A of the 1998 Act comes into force.

*Enforcement notices*

- 33 (1) The repeal of sections 40 and 41 of the 1998 Act (enforcement notices) does not affect the application of those sections after the relevant time in a case in which –
  - (a) the Commissioner served a notice under section 40 of the 1998 Act before the relevant time (and did not cancel it before that time), or
  - (b) the Commissioner is satisfied, after that time, that a data controller –
    - (i) contravened the old data protection principles before that time, or
    - (ii) contravened the sixth data protection principle sections after that time.
- (2) In this paragraph, "the relevant time" means the time when the repeal of section 40 of the 1998 Act comes into force.

*Determination by Commissioner as to the special purposes*

- 34 (1) The repeal of section 45 of the 1998 Act (determination by Commissioner as to the special purposes) does not affect the application of that section after the relevant time in a case in which –
  - (a) the Commissioner made a determination under that section before the relevant time, or
  - (b) the Commissioner considers it appropriate, after the relevant time, to make a determination under that section.
- (2) In this paragraph, "the relevant time" means the time when the repeal of section 45 of the 1998 Act comes into force.

*Restriction on enforcement in case of processing for the special purposes*

- 35 (1) The repeal of section 46 of the 1998 Act (restriction on enforcement in case of processing for the special purposes) does not affect the application of that section after the relevant time in relation to an enforcement notice or information notice served under the 1998 Act –
  - (a) before the relevant time, or

- (b) after the relevant time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 46 of the 1998 Act comes into force.

### *Offences*

- 36 (1) The repeal of sections 47, 60 and 61 of the 1998 Act (offences of failing to comply with certain notices and of providing false information etc in response to a notice) does not affect the application of those sections after the relevant time in connection with an information notice, special information notice or enforcement notice served under Part 5 of the 1998 Act—
- (a) before the relevant time, or
  - (b) after that time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 47 of the 1998 Act comes into force.

### *Powers of entry*

- 37 (1) The repeal of sections 50, 60 and 61 of, and Schedule 9 to, the 1998 Act (powers of entry) does not affect the application of those provisions after the relevant time in a case in which—
- (a) a warrant issued under that Schedule was in force immediately before the relevant time,
  - (b) before the relevant time, the Commissioner supplied information on oath for the purposes of obtaining a warrant under that Schedule but that had not been considered by a circuit judge or a District Judge (Magistrates’ Courts), or
  - (c) after the relevant time, the Commissioner supplies information on oath to a circuit judge or a District Judge (Magistrates’ Courts) in respect of—
    - (i) a contravention of the old data protection principles before the relevant time;
    - (ii) a contravention of the sixth data protection principle sections after the relevant time;
    - (iii) the commission of an offence under a provision of the 1998 Act (including as the provision has effect by virtue of this Schedule);
    - (iv) a failure to comply with a requirement imposed by an assessment notice issued under section 41A the 1998 Act (including as it has effect by virtue of this Schedule).
- (2) In paragraph 16 of Schedule 9 to the 1998 Act, as it has effect by virtue of this paragraph, the reference to an offence under paragraph 12 of that Schedule includes an offence under paragraph 15 of Schedule 15 to this Act.
- (3) In this paragraph, “the relevant time” means the time when the repeal of Schedule 9 to the 1998 Act comes into force.
- (4) Paragraphs 14 and 15 of Schedule 9 to the 1998 Act (application of that Schedule to Scotland and Northern Ireland) apply for the purposes of this paragraph as they apply for the purposes of that Schedule.

*Monetary penalties*

- 38 (1) The repeal of sections 55A, 55B, 55D and 55E of the 1998 Act (monetary penalties) does not affect the application of those provisions after the relevant time in a case in which—
- (a) the Commissioner served a monetary penalty notice under section 55A of the 1998 Act before the relevant time,
  - (b) the Commissioner served a notice of intent under section 55B of the 1998 Act before the relevant time, or
  - (c) the Commissioner considers it appropriate, after the relevant time, to serve a notice mentioned in paragraph (a) or (b) in respect of—
    - (i) a contravention of section 4(4) of the 1998 Act before the relevant time, or
    - (ii) a contravention of the sixth data protection principle sections after the relevant time.
- (2) The revocation of the relevant subordinate legislation, and the repeals mentioned in sub-paragraph (1), do not affect the application of the relevant subordinate legislation (or of provisions of the 1998 Act applied by them) after the relevant time in a case described in sub-paragraph (1).
- (3) Guidance issued under section 55C of the 1998 Act (guidance about monetary penalty notices) which is in force immediately before the relevant time continues in force after that time for the purposes of the Commissioner’s exercise of functions under sections 55A and 55B of the 1998 Act as they have effect by virtue of this paragraph.
- (4) In this paragraph—
- “the relevant subordinate legislation” means—
    - (a) the Data Protection (Monetary Penalties) (Maximum Penalty and Notices) Regulations 2010 (S.I. 2010/31);
    - (b) the Data Protection (Monetary Penalties) Order 2010 (S.I. 2010/910);
  - “the relevant time” means the time when the repeal of section 55A of the 1998 Act comes into force.

*Appeals*

- 39 (1) The repeal of sections 48 and 49 of the 1998 Act (appeals) does not affect the application of those sections after the relevant time in relation to a notice served under the 1998 Act or a determination made under section 45 of that Act—
- (a) before the relevant time, or
  - (b) after that time in reliance on this Schedule.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 48 of the 1998 Act comes into force.

*Exemptions*

- 40 (1) The repeal of section 28 of the 1998 Act (national security) does not affect the application of that section after the relevant time for the purposes of a provision of Part 5 of the 1998 Act as it has effect after that time by virtue of the preceding paragraphs of this Part of this Schedule.

- (2) In this paragraph, “the relevant time” means the time when the repeal of the provision of Part 5 of the 1998 Act in question comes into force.
- (3) As regards certificates issued under section 28(2) of the 1998 Act, see Part 5 of this Schedule.

#### *Tribunal Procedure Rules*

- 41 (1) The repeal of paragraph 7 of Schedule 6 to the 1998 Act (Tribunal Procedure Rules) does not affect the application of that paragraph, or of rules made under that paragraph, after the relevant time in relation to the exercise of rights of appeal conferred by section 28 or 48 of the 1998 Act, as they have effect by virtue of this Schedule.
- (2) Part 3 of Schedule 18 to this Act does not apply for the purposes of Tribunal Procedure Rules made under paragraph 7(1)(a) of Schedule 6 to the 1998 Act as they apply, after the relevant time, in relation to the exercise of rights of appeal described in sub-paragraph (1).
- (3) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7 of Schedule 6 to the 1998 Act comes into force.

#### *Obstruction etc*

- 42 (1) The repeal of paragraph 8 of Schedule 6 to the 1998 Act (obstruction etc in proceedings before the Tribunal) does not affect the application of that paragraph after the relevant time in relation to an act or omission in relation to proceedings under the 1998 Act (including as it has effect by virtue of this Schedule).
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 8 of Schedule 6 to the 1998 Act comes into force.

#### *Enforcement etc under the 2014 Regulations*

- 43 (1) The references in the preceding paragraphs of this Part of this Schedule to provisions of the 1998 Act include those provisions as applied, with modifications, by regulation 51 of the 2014 Regulations (other functions of the Commissioner).
- (2) The revocation of regulation 51 of the 2014 Regulations does not affect the application of those provisions of the 1998 Act (as so applied) as described in those paragraphs.

### PART 8

#### ENFORCEMENT ETC UNDER THIS ACT

#### *Information notices*

- 44 In section 142 of this Act—
  - (a) the reference to an offence under section 143 of this Act includes an offence under section 47 of the 1998 Act (including as it has effect by virtue of this Schedule), and
  - (b) the references to an offence under this Act include an offence under the 1998 Act (including as it has effect by virtue of this Schedule) or the 1984 Act.

*Powers of entry*

- 45 In paragraph 16 of Schedule 15 to this Act (powers of entry: self-incrimination), the reference to an offence under paragraph 15 of that Schedule includes an offence under paragraph 12 of Schedule 9 to the 1998 Act (including as it has effect by virtue of this Schedule).

*Tribunal Procedure Rules*

- 46 (1) Tribunal Procedure Rules made under paragraph 7(1)(a) of Schedule 6 to the 1998 Act (appeal rights under the 1998 Act) and in force immediately before the relevant time have effect after that time as if they were also made under section 194 of this Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7(1)(a) of Schedule 6 to the 1998 Act comes into force.

## PART 9

## OTHER ENACTMENTS

*Powers to disclose information to the Commissioner*

- 47 (1) The following provisions (as amended by Schedule 18 to this Act) have effect after the relevant time as if the matters they refer to included a matter in respect of which the Commissioner could exercise a power conferred by a provision of Part 5 of the 1998 Act, as it has effect by virtue of this Schedule—
- (a) section 11AA(1)(a) of the Parliamentary Commissioner Act 1967 (disclosure of information by Parliamentary Commissioner);
  - (b) sections 33A(1)(a) and 34O(1)(a) of the Local Government Act 1974 (disclosure of information by Local Commissioner);
  - (c) section 18A(1)(a) of the Health Service Commissioners Act 1993 (disclosure of information by Health Service Commissioner);
  - (d) paragraph 1 of the entry for the Information Commissioner in Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (asp 11) (disclosure of information by the Ombudsman);
  - (e) section 34X(3)(a) of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information by the Ombudsman);
  - (f) section 18(6)(a) of the Commissioner for Older People (Wales) Act 2006 (disclosure of information by the Commissioner);
  - (g) section 22(3)(a) of the Welsh Language (Wales) Measure 2011 (nawm 1) (disclosure of information by the Welsh Language Commissioner);
  - (h) section 49(3)(a) of the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.)) (disclosure of information by the Ombudsman);
  - (i) section 44(3)(a) of the Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)) (disclosure of information by the Prison Ombudsman for Northern Ireland).

- (2) The following provisions (as amended by Schedule 18 to this Act) have effect after the relevant time as if the offences they refer to included an offence under any provision of the 1998 Act other than paragraph 12 of Schedule 9 to that Act (obstruction of execution of warrant) –
- (a) section 11AA(1)(b) of the Parliamentary Commissioner Act 1967;
  - (b) sections 33A(1)(b) and 34O(1)(b) of the Local Government Act 1974;
  - (c) section 18A(1)(b) of the Health Service Commissioners Act 1993;
  - (d) paragraph 2 of the entry for the Information Commissioner in Schedule 5 to the Scottish Public Services Ombudsman Act 2002 (asp 11);
  - (e) section 34X(5) of the Public Services Ombudsman (Wales) Act 2005 (disclosure of information by the Ombudsman);
  - (f) section 18(8) of the Commissioner for Older People (Wales) Act 2006;
  - (g) section 22(5) of the Welsh Language (Wales) Measure 2011 (nawm 1);
  - (h) section 49(5) of the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.));
  - (i) section 44(3)(b) of the Justice Act (Northern Ireland) 2016 (c. 21 (N.I.)).
- (3) In this paragraph, “the relevant time”, in relation to a provision of a section or Schedule listed in sub-paragraph (1) or (2), means the time when the amendment of the section or Schedule by Schedule 18 to this Act comes into force.

*Codes etc required to be consistent with the Commissioner’s data-sharing code*

- 48 (1) This paragraph applies in relation to the code of practice issued under each of the following provisions –
- (a) section 19AC of the Registration Service Act 1953 (code of practice about disclosure of information by civil registration officials);
  - (b) section 43 of the Digital Economy Act 2017 (code of practice about disclosure of information to improve public service delivery);
  - (c) section 52 of that Act (code of practice about disclosure of information to reduce debt owed to the public sector);
  - (d) section 60 of that Act (code of practice about disclosure of information to combat fraud against the public sector);
  - (e) section 70 of that Act (code of practice about disclosure of information for research purposes).
- (2) During the relevant period, the code of practice does not have effect to the extent that it is inconsistent with the code of practice prepared under section 121 of this Act (data-sharing code) and issued under section 124(4) of this Act (as altered or replaced from time to time).
- (3) In this paragraph, “the relevant period”, in relation to a code issued under a section mentioned in sub-paragraph (1), means the period –
- (a) beginning when the amendments of that section in Schedule 18 to this Act come into force, and
  - (b) ending when the code is first reissued under that section.

- 49 (1) This paragraph applies in relation to the original statement published under section 45E of the Statistics and Registration Service Act 2007 (statement of principles and procedures in connection with access to information by the Statistics Board).
- (2) During the relevant period, the statement does not have effect to the extent that it is inconsistent with the code of practice prepared under section 121 of this Act (data-sharing code) and issued under section 124(4) of this Act (as altered or replaced from time to time).
- (3) In this paragraph, “the relevant period” means the period –
- (a) beginning when the amendments of section 45E of the Statistics and Registration Service Act 2007 in Schedule 18 to this Act come into force, and
  - (b) ending when the first revised statement is published under that section.

*Consumer Credit Act 1974*

- 50 In section 159(1)(a) of the Consumer Credit Act 1974 (correction of wrong information) (as amended by Schedule 18 to this Act), the reference to information given under Article 15(1) to (3) of the GDPR includes information given at any time under section 7 of the 1998 Act.

*Freedom of Information Act 2000*

- 51 Paragraphs 52 to 55 make provision about the Freedom of Information Act 2000 (“the 2000 Act”).
- 52 (1) This paragraph applies where a request for information was made to a public authority under the 2000 Act before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of sections 2 and 40 of the 2000 Act in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Part 1 of the 2000 Act.
- (3) To the extent that the request was dealt with before the relevant time –
- (a) the amendments of sections 2 and 40 of the 2000 Act in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Part 1 of the 2000 Act, but
  - (b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act, do not include power to require the authority to take steps which it would not be required to take in order to comply with Part 1 of the 2000 Act as amended by Schedule 18 to this Act.
- (4) In this paragraph –
- “public authority” has the same meaning as in the 2000 Act;
  - “the relevant time” means the time when the amendments of sections 2 and 40 of the 2000 Act in Schedule 18 to this Act come into force.

- 53 (1) Tribunal Procedure Rules made under paragraph 7(1)(b) of Schedule 6 to the 1998 Act (appeal rights under the 2000 Act) and in force immediately before the relevant time have effect after that time as if they were also made under section 61 of the 2000 Act (as inserted by Schedule 18 to this Act).
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 7(1)(b) of Schedule 6 to the 1998 Act comes into force.
- 54 (1) The repeal of paragraph 8 of Schedule 6 to the 1998 Act (obstruction etc in proceedings before the Tribunal) does not affect the application of that paragraph after the relevant time in relation to an act or omission before that time in relation to an appeal under the 2000 Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of paragraph 8 of Schedule 6 to the 1998 Act comes into force.
- 55 (1) The amendment of section 77 of the 2000 Act in Schedule 18 to this Act (offence of altering etc record with intent to prevent disclosure: omission of reference to section 7 of the 1998 Act) does not affect the application of that section after the relevant time in relation to a case in which—
- (a) the request for information mentioned in section 77(1) of the 2000 Act was made before the relevant time, and
  - (b) when the request was made, section 77(1)(b) of the 2000 Act was satisfied by virtue of section 7 of the 1998 Act.
- (2) In this paragraph, “the relevant time” means the time when the repeal of section 7 of the 1998 Act comes into force.

*Freedom of Information (Scotland) Act 2002*

- 56 (1) This paragraph applies where a request for information was made to a Scottish public authority under the Freedom of Information (Scotland) Act 2002 (“the 2002 Act”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2002 Act in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Part 1 of the 2002 Act.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2002 Act in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Part 1 of the 2002 Act, but
  - (b) the powers of the Scottish Information Commissioner and the Court of Session, on an application or appeal under the 2002 Act, do not include power to require the authority to take steps which it would not be required to take in order to comply with Part 1 of the 2002 Act as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “Scottish public authority” has the same meaning as in the 2002 Act;
  - “the relevant time” means the time when the amendments of the 2002 Act in Schedule 18 to this Act come into force.

*Access to Health Records (Northern Ireland) Order 1993 (S.I. 1993/1250 (N.I. 4))*

- 57        Until the first regulations under Article 5(4)(a) of the Access to Health Records (Northern Ireland) Order 1993 (as amended by Schedule 18 to this Act) come into force, the maximum amount of a fee that may be required for giving access under that Article is £10.

*Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2450)*

- 58    (1) The repeal of a provision of the 1998 Act does not affect its operation for the purposes of the Privacy and Electronic Communications (EC Directive) Regulations 2003 (“the PECR 2003”) (see regulations 2, 31 and 31B of, and Schedule 1 to, those Regulations).
- (2) Where subordinate legislation made under a provision of the 1998 Act is in force immediately before the repeal of that provision, neither the revocation of the subordinate legislation nor the repeal of the provision of the 1998 Act affect the application of the subordinate legislation for the purposes of the PECR 2003 after that time.
- (3) Part 3 of Schedule 18 to this Act (modifications) does not have effect in relation to the PECR 2003.
- (4) Part 7 of this Schedule does not have effect in relation to the provisions of the 1998 Act as applied by the PECR 2003.

*Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))*

- 59        Part 3 of Schedule 18 to this Act (modifications) does not have effect in relation to the reference to an accessible record within the meaning of section 68 of the 1998 Act in regulation 43 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003.

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

- 60    (1) This paragraph applies where a request for information was made to a public authority under the Environmental Information Regulations 2004 (“the 2004 Regulations”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with Parts 2 and 3 of those Regulations.
- (3) To the extent that the request was dealt with before the relevant time –
- (a) the amendments of the 2004 Regulations in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with Parts 2 and 3 of those Regulations, but

- (b) the powers of the Commissioner and the Tribunal, on an application or appeal under the 2000 Act (as applied by the 2004 Regulations), do not include power to require the authority to take steps which it would not be required to take in order to comply with Parts 2 and 3 of those Regulations as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “public authority” has the same meaning as in the 2004 Regulations;
  - “the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 18 to this Act come into force.

*Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520)*

- 61 (1) This paragraph applies where a request for information was made to a Scottish public authority under the Environmental Information (Scotland) Regulations 2004 (“the 2004 Regulations”) before the relevant time.
- (2) To the extent that the request is dealt with after the relevant time, the amendments of the 2004 Regulations in Schedule 18 to this Act have effect for the purposes of determining whether the authority deals with the request in accordance with those Regulations.
- (3) To the extent that the request was dealt with before the relevant time—
- (a) the amendments of the 2004 Regulations in Schedule 18 to this Act do not have effect for the purposes of determining whether the authority dealt with the request in accordance with those Regulations, but
  - (b) the powers of the Scottish Information Commissioner and the Court of Session, on an application or appeal under the 2002 Act (as applied by the 2004 Regulations), do not include power to require the authority to take steps which it would not be required to take in order to comply with those Regulations as amended by Schedule 18 to this Act.
- (4) In this paragraph—
- “Scottish public authority” has the same meaning as in the 2004 Regulations;
  - “the relevant time” means the time when the amendments of the 2004 Regulations in Schedule 18 to this Act come into force.”

# Data Protection Bill [HL]

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## COMMONS AMENDMENTS

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*9 May 2018*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS