

*Status: Point in time view as at 19/08/2003.*

**Changes to legislation:** Data Protection Act 1998, Cross Heading: The first principle is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULES

### SCHEDULE 1

#### THE DATA PROTECTION PRINCIPLES

#### PART II

##### INTERPRETATION OF THE PRINCIPLES IN PART I

##### *The first principle*

- 1 (1) In determining for the purposes of the first principle whether personal data are processed fairly, regard is to be had to the method by which they are obtained, including in particular whether any person from whom they are obtained is deceived or misled as to the purpose or purposes for which they are to be processed.
- (2) Subject to paragraph 2, for the purposes of the first principle data are to be treated as obtained fairly if they consist of information obtained from a person who—
  - (a) is authorised by or under any enactment to supply it, or
  - (b) is required to supply it by or under any enactment or by any convention or other instrument imposing an international obligation on the United Kingdom.
- 2 (1) Subject to paragraph 3, for the purposes of the first principle personal data are not to be treated as processed fairly unless—
  - (a) in the case of data obtained from the data subject, the data controller ensures so far as practicable that the data subject has, is provided with, or has made readily available to him, the information specified in sub-paragraph (3), and
  - (b) in any other case, the data controller ensures so far as practicable that, before the relevant time or as soon as practicable after that time, the data subject has, is provided with, or has made readily available to him, the information specified in sub-paragraph (3).
- (2) In sub-paragraph (1)(b) “the relevant time” means—
  - (a) the time when the data controller first processes the data, or
  - (b) in a case where at that time disclosure to a third party within a reasonable period is envisaged—
    - (i) if the data are in fact disclosed to such a person within that period, the time when the data are first disclosed,
    - (ii) if within that period the data controller becomes, or ought to become, aware that the data are unlikely to be disclosed to such a person within that period, the time when the data controller does become, or ought to become, so aware, or
    - (iii) in any other case, the end of that period.
- (3) The information referred to in sub-paragraph (1) is as follows, namely—

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- (a) the identity of the data controller,
  - (b) if he has nominated a representative for the purposes of this Act, the identity of that representative,
  - (c) the purpose or purposes for which the data are intended to be processed, and
  - (d) any further information which is necessary, having regard to the specific circumstances in which the data are or are to be processed, to enable processing in respect of the data subject to be fair.
- 3 (1) Paragraph 2(1)(b) does not apply where either of the primary conditions in sub-paragraph (2), together with such further conditions as may be prescribed by the [<sup>F1</sup> Secretary of State] by order, are met.
- (2) The primary conditions referred to in sub-paragraph (1) are—
- (a) that the provision of that information would involve a disproportionate effort, or
  - (b) that the recording of the information to be contained in the data by, or the disclosure of the data by, the data controller is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

#### Textual Amendments

- F1** Words in Sch. 1 Pt. 2 para. 3 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 9(1)(b)**

#### Commencement Information

- I1** Sch. 1 Pt. II para. 3 wholly in force at 1.3.2000; Sch. 1 Pt. II para. 3 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 1 Pt. II para. 3 in force at 1.3.2000 insofar as not already in force by [S.I. 2000/183](#), **art. 2(1)**

- 4 (1) Personal data which contain a general identifier falling within a description prescribed by the [<sup>F2</sup> Secretary of State] by order are not to be treated as processed fairly and lawfully unless they are processed in compliance with any conditions so prescribed in relation to general identifiers of that description.
- (2) In sub-paragraph (1) “a general identifier” means any identifier (such as, for example, a number or code used for identification purposes) which—
- (a) relates to an individual, and
  - (b) forms part of a set of similar identifiers which is of general application.

#### Textual Amendments

- F2** Words in Sch. 1 Pt. 2 para. 4 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 9(1)(b)**

#### Commencement Information

- I2** Sch. 1 Pt. II para. 4 wholly in force at 1.3.2000; Sch. 1 Pt. II para. 4 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 1 Pt. II para. 4 in force at 1.3.2000 insofar as not already in force by [S.I. 2000/183](#), **art. 2(1)**

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