

SCHEDULES

SCHEDULE 1

SPECIAL CATEGORIES OF PERSONAL DATA AND CRIMINAL CONVICTIONS ETC DATA

PART 3

ADDITIONAL CONDITIONS RELATING TO CRIMINAL CONVICTIONS ETC

Consent

- 29 This condition is met if the data subject has given consent to the processing.

Protecting individual's vital interests

- 30 This condition is met if—
- (a) the processing is necessary to protect the vital interests of an individual, and
 - (b) the data subject is physically or legally incapable of giving consent.

Processing by not-for-profit bodies

- 31 This condition is met if the processing is carried out—
- (a) in the course of its legitimate activities with appropriate safeguards by a foundation, association or other not-for-profit body with a political, philosophical, religious or trade union aim, and
 - (b) on condition that—
 - (i) the processing relates solely to the members or to former members of the body or to persons who have regular contact with it in connection with its purposes, and
 - (ii) the personal data is not disclosed outside that body without the consent of the data subjects.

Personal data in the public domain

- 32 This condition is met if the processing relates to personal data which is manifestly made public by the data subject.

Legal claims

- 33 This condition is met if the processing—
- (a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),
 - (b) is necessary for the purpose of obtaining legal advice, or

Status: This is the original version (as it was originally enacted).

- (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

Judicial acts

- 34 This condition is met if the processing is necessary when a court or tribunal is acting in its judicial capacity.

Administration of accounts used in commission of indecency offences involving children

- 35 (1) This condition is met if—
- (a) the processing is of personal data about a conviction or caution for an offence listed in sub-paragraph (2),
 - (b) the processing is necessary for the purpose of administering an account relating to the payment card used in the commission of the offence or cancelling that payment card, and
 - (c) when the processing is carried out, the controller has an appropriate policy document in place (see paragraph 39 in Part 4 of this Schedule).

- (2) Those offences are an offence under—
- (a) section 1 of the Protection of Children Act 1978 (indecent photographs of children),
 - (b) Article 3 of the Protection of Children (Northern Ireland) Order 1978 ([S.I. 1978/1047 \(N.I. 17\)](#)) (indecent photographs of children),
 - (c) section 52 of the Civic Government (Scotland) Act 1982 (indecent photographs etc of children),
 - (d) section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of child),
 - (e) Article 15 of the Criminal Justice (Evidence etc) (Northern Ireland) Order 1988 ([S.I. 1988/1847 \(N.I. 17\)](#)) (possession of indecent photograph of child), or
 - (f) section 62 of the Coroners and Justice Act 2009 (possession of prohibited images of children),

or incitement to commit an offence under any of those provisions.

- (3) See also the additional safeguards in Part 4 of this Schedule.

- (4) In this paragraph—

“caution” means a caution given to a person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, is admitted;

“conviction” has the same meaning as in the Rehabilitation of Offenders Act 1974 or the Rehabilitation of Offenders (Northern Ireland) Order 1978 ([S.I. 1978/1908 \(N.I. 27\)](#));

“payment card” includes a credit card, a charge card and a debit card.

Extension of conditions in Part 2 of this Schedule referring to substantial public interest

- 36 This condition is met if the processing would meet a condition in Part 2 of this Schedule but for an express requirement for the processing to be necessary for reasons of substantial public interest.

Extension of insurance conditions

- 37 This condition is met if the processing—
- (a) would meet the condition in paragraph 20 in Part 2 of this Schedule (the “insurance condition”), or
 - (b) would meet the condition in paragraph 36 by virtue of the insurance condition,
- but for the requirement for the processing to be processing of a category of personal data specified in paragraph 20(1)(b).