
STATUTORY INSTRUMENTS

1999 No. 2093

The Telecommunications (Data Protection and Privacy) Regulations 1999

PART I
GENERAL

Citation and commencement

1.—(1) These Regulations may be cited as the Telecommunications (Data Protection and Privacy) Regulations 1999.

(2) These Regulations shall come into force—

- (a) for the purposes of regulation 3(2), on 16th August 1999;
- (b) for all other purposes, on 1st March 2000.

Interpretation

2.—(1) In these Regulations—

“the Act of 1984” means the Telecommunications Act 1984(1);

“bill” includes an invoice, account, statement or other instrument of the like character and “billing” shall be construed accordingly;

“corporate subscriber” means a subscriber who is not an individual, that is to say a subscriber who is—

- (a) a company within the meaning of section 735(1) of the Companies Act 1985(2);
- (b) a company incorporated in pursuance of a royal charter or letters patent;
- (c) a partnership in Scotland;
- (d) a corporation sole; or
- (e) any other body corporate or other entity which is a legal person distinct from the persons (if any) of which it is composed;

“the Data Protection Commissioner” and “the Commissioner” both mean the Commissioner appointed under section 6 of the Data Protection Act 1998(3);

“the Directive” means Directive [97/66/EC](#) of the European Parliament and of the Council of the European Union(4);

“the Director” means the Director General of Telecommunications appointed under section 1 of the Act of 1984;

(1) 1984 c. 12.

(2) 1985 c. 6.

(3) 1998 c. 29.

(4) O.J. No. L24, 30.1.98, p. 1.

“individual” means a living individual and includes an unincorporated body of such individuals;

“public telecommunications network” means any transmission system, and any associated switching equipment and other resources, which (in either case)–

- (a) permit the conveyance of signals between defined termination points by wire, by radio, by optical or by other electro-magnetic means, and
- (b) are used, in whole or in part, for the provision of publicly available telecommunications services;

“relevant telecommunications network”, in relation to a telecommunications service provider, means a public telecommunications network which is used by that service provider for the provision of publicly available telecommunications services;

“relevant telecommunications service provider” means–

- (a) in relation to a user, the provider of the services he uses, and
- (b) in relation to a subscriber, the provider who provides him with services;

“subscriber” means a person who is a party to a contract with a telecommunications service provider for the supply of publicly available telecommunications services;

“telecommunications network provider” means a person who provides a public telecommunications network (whether or not he is also a telecommunications service provider);

“telecommunications service provider” means a person who provides publicly available telecommunications services (whether or not he is also a telecommunications network provider);

“telecommunications services” means services the provision of which consists, in whole or in part, of the transmission and routing of signals on telecommunications networks, not being services by way of radio or television broadcasting;

“user” means an individual using a publicly available telecommunications service (whether or not he is a subscriber).

(2) Section 1 of the Data Protection Act 1998 (basic interpretative provisions) shall have effect for the purposes of these Regulations as it has effect for the purposes of that Act.

(3) Subject to paragraphs (1) and (2) and except where the context otherwise requires, expressions used in these Regulations which are also used in the Directive have the same meanings in these Regulations as they have in the Directive.

(4) In a case in which signals are conveyed to telecommunications equipment used by a subscriber wholly or partly otherwise than by line, any reference in these Regulations to a line shall be construed as including a reference to what, in that case, functionally corresponds to a line and “connected”, in relation to a line, shall be construed accordingly.

Revocation and amendment of provisions and modification of contracts

3.—(1) The Telecommunications (Data Protection and Privacy) (Direct Marketing) Regulations 1998⁽⁵⁾ are hereby revoked.

(2) Until the coming into force of paragraph (1) on 1st March 2000 and the revocation thereby of the said Regulations of 1998, those Regulations shall have effect subject to the amendment set out in Part I of Schedule 1.

(3) The amendments set out in Part II of Schedule 1 shall have effect.

(5) S.I.1998/3170.

- (4) To the extent that any term in a contract between—
- (a) a subscriber to, and the provider of, publicly available telecommunications services, or
 - (b) such a provider and a telecommunications network provider,
- would be inconsistent with a requirement of these Regulations, that term shall be void.

Requirements of Regulations

4. Notwithstanding that the requirements of these Regulations are requirements imposed by law, where a person is required to provide, or ensure the provision of, a facility he may make a reasonable charge in respect thereof save insofar as is otherwise provided in regulations 11(2) and (3), 12(2) and (3), 18(1), 19(1) and 31.

Consents, notices, notifications and requests for purposes of Regulations

5.—(1) Except where the context otherwise requires, a consent, notice or notification for the purposes of these Regulations may be in general or more limited terms and may be subject to conditions.

(2) A consent, notice, notification or request for the purposes of these Regulations may (without prejudice to any other method of transmission) be sent by post.