



Freedom of Information Act 2000

2000 CHAPTER 36

PART VII

AMENDMENTS OF DATA PROTECTION ACT 1998

Amendments relating to personal information held by public authorities

VALID FROM 01/01/2005

68 Extension of meaning of “data”.

- (1) Section 1 of the ^{M1}Data Protection Act 1998 (basic interpretative provisions) is amended in accordance with subsections (2) and (3).
- (2) In subsection (1)—
 - (a) in the definition of “data”, the word “or” at the end of paragraph (c) is omitted and after paragraph (d) there is inserted “or
 - (e) is recorded information held by a public authority and does not fall within any of paragraphs (a) to (d);”, and
 - (b) after the definition of “processing” there is inserted—

““public authority” has the same meaning as in the Freedom of Information Act 2000;”.
- (3) After subsection (4) there is inserted—
 - (5) In paragraph (e) of the definition of “data” in subsection (1), the reference to information “held” by a public authority shall be construed in accordance with section 3(2) of the Freedom of Information Act 2000.
 - (6) Where section 7 of the Freedom of Information Act 2000 prevents Parts I to V of that Act from applying to certain information held by a public authority,

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that information is not to be treated for the purposes of paragraph (e) of the definition of “data” in subsection (1) as held by a public authority.”

(4) In section 56 of that Act (prohibition of requirement as to production of certain records), after subsection (6) there is inserted—

“(6A) A record is not a relevant record to the extent that it relates, or is to relate, only to personal data falling within paragraph (e) of the definition of “data” in section 1(1).”

(5) In the Table in section 71 of that Act (index of defined expressions) after the entry relating to processing there is inserted—

“public authority

section 1(1).”

Commencement Information

II S. 68 wholly in force at 1.1.2005; s. 68 not in force at Royal Assent, see s. 87(3); s. 68 in force for certain purposes at 1.1.2005 by S.I. 2002/1909, art. 2 and otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

Marginal Citations

M1 1998 c. 29.

69 Right of access to unstructured personal data held by public authorities.

(1) In section 7(1) of the ^{M2}Data Protection Act 1998 (right of access to personal data), for “sections 8 and 9” there is substituted “ sections 8, 9 and 9A ”.

(2) After section 9 of that Act there is inserted—

“9A Unstructured personal data held by public authorities.

(1) In this section “unstructured personal data” means any personal data falling within paragraph (e) of the definition of “data” in section 1(1), other than information which is recorded as part of, or with the intention that it should form part of, any set of information relating to individuals to the extent that the set is structured by reference to individuals or by reference to criteria relating to individuals.

(2) A public authority is not obliged to comply with subsection (1) of section 7 in relation to any unstructured personal data unless the request under that section contains a description of the data.

(3) Even if the data are described by the data subject in his request, a public authority is not obliged to comply with subsection (1) of section 7 in relation to unstructured personal data if the authority estimates that the cost of complying with the request so far as relating to those data would exceed the appropriate limit.

(4) Subsection (3) does not exempt the public authority from its obligation to comply with paragraph (a) of section 7(1) in relation to the unstructured

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personal data unless the estimated cost of complying with that paragraph alone in relation to those data would exceed the appropriate limit.

(5) In subsections (3) and (4) “the appropriate limit” means such amount as may be prescribed by the Secretary of State by regulations, and different amounts may be prescribed in relation to different cases.

(6) Any estimate for the purposes of this section must be made in accordance with regulations under section 12(5) of the Freedom of Information Act 2000.”

(3) In section 67(5) of that Act (statutory instruments subject to negative resolution procedure), in paragraph (c), for “or 9(3)” there is substituted “, 9(3) or 9A(5)”.

Commencement Information

I2 S. 69 wholly in force at 1.1.2005; s. 69 in force at Royal Assent to the extent that it confers power to make regulations, see s. 87(1)(m)(3); s. 69 in force for certain further purposes at 1.1.2005 by S.I. 2002/1909, art. 2 and otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

Marginal Citations

M2 1998 c. 29.

VALID FROM 01/01/2005

70 Exemptions applicable to certain manual data held by public authorities.

(1) After section 33 of the ^{M3}Data Protection Act 1998 there is inserted—

“33A Manual data held by public authorities.

(1) Personal data falling within paragraph (e) of the definition of “data” in section 1(1) are exempt from—

- (a) the first, second, third, fifth, seventh and eighth data protection principles,
- (b) the sixth data protection principle except so far as it relates to the rights conferred on data subjects by sections 7 and 14,
- (c) sections 10 to 12,
- (d) section 13, except so far as it relates to damage caused by a contravention of section 7 or of the fourth data protection principle and to any distress which is also suffered by reason of that contravention,
- (e) Part III, and
- (f) section 55.

(2) Personal data which fall within paragraph (e) of the definition of “data” in section 1(1) and relate to appointments or removals, pay, discipline, superannuation or other personnel matters, in relation to—

- (a) service in any of the armed forces of the Crown,
- (b) service in any office or employment under the Crown or under any public authority, or

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(c) service in any office or employment, or under any contract for services, in respect of which power to take action, or to determine or approve the action taken, in such matters is vested in Her Majesty, any Minister of the Crown, the National Assembly for Wales, any Northern Ireland Minister (within the meaning of the Freedom of Information Act 2000) or any public authority,

are also exempt from the remaining data protection principles and the remaining provisions of Part II.”

(2) In section 55 of that Act (unlawful obtaining etc. of personal data) in subsection (8) after “section 28” there is inserted “ or 33A ”.

(3) In Part III of Schedule 8 to that Act (exemptions available after 23rd October 2001 but before 24th October 2007) after paragraph 14 there is inserted—

“14A (1) This paragraph applies to personal data which fall within paragraph (e) of the definition of “data” in section 1(1) and do not fall within paragraph 14(1)(a), but does not apply to eligible manual data to which the exemption in paragraph 16 applies.

(2) During the second transitional period, data to which this paragraph applies are exempt from—

- (a) the fourth data protection principle, and
- (b) section 14(1) to (3).”

(4) In Schedule 13 to that Act (modifications of Act having effect before 24th October 2007) in subsection (4)(b) of section 12A to that Act as set out in paragraph 1, after “paragraph 14” there is inserted “ or 14A ”.

Commencement Information

I3 S. 70 wholly in force at 1.1.2005; s. 70 not in force at Royal Assent, see s. 87(3); s. 70 in force for certain purposes at 1.1.2005 by S.I. 2002/1909, art. 2 and otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

Marginal Citations

M3 1998 c. 29.

VALID FROM 01/01/2005

71 Particulars registrable under Part III of Data Protection Act 1998.

In section 16(1) of the ^{M4}Data Protection Act 1998 (the registrable particulars), before the word “and” at the end of paragraph (f) there is inserted—

“(ff) where the data controller is a public authority, a statement of that fact.”.

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Commencement Information

- I4** S. 71 wholly in force at 1.1.2005; s. 71 not in force at Royal Assent, see s. 87(3); s. 71 in force for certain purposes at 1.1.2005 by S.I. 2002/1909, art. 2 and otherwise in force at 1.1.2005 by S.I. 2004/3122, art. 2

Marginal Citations

- M4** 1998 c. 29.

VALID FROM 30/11/2002

72 Availability under Act disregarded for purpose of exemption.

In section 34 of the ^{M5}Data Protection Act 1998 (information available to the public by or under enactment), after the word “enactment” there is inserted “ other than an enactment contained in the Freedom of Information Act 2000 ”.

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- M5** 1998 c. 29.

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