

**Changes to legislation:** Data Protection Act 2018, Paragraph 26 is up to date with all changes known to be in force on or before 12 May 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) View outstanding changes

## SCHEDULES

### SCHEDULE 2

#### EXEMPTIONS ETC FROM THE [F1UK GDPR]

##### Textual Amendments

- F1** Words in Sch. 2 heading substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 2 para. 92(2) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

### PART 5

#### EXEMPTIONS ETC <sup>F1</sup>... FOR REASONS OF FREEDOM OF EXPRESSION AND INFORMATION

##### Textual Amendments

- F1** Words in Sch. 2 Pt. 5 heading omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), Sch. 2 para. 92(20) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

#### *Journalistic, academic, artistic and literary purposes*

- 26 (1) In this paragraph, “the special purposes” means one or more of the following—
- the purposes of journalism;
  - academic purposes;
  - artistic purposes;
  - literary purposes.
- (2) Sub-paragraph (3) applies to the processing of personal data carried out for the special purposes if—
- the processing is being carried out with a view to the publication by a person of journalistic, academic, artistic or literary material, and
  - the controller reasonably believes that the publication of the material would be in the public interest.
- (3) The listed GDPR provisions do not apply to the extent that the controller reasonably believes that the application of those provisions would be incompatible with the special purposes.
- (4) In determining whether publication would be in the public interest the controller must take into account the special importance of the public interest in the freedom of expression and information.

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- (5) In determining whether it is reasonable to believe that publication would be in the public interest, the controller must have regard to any of the codes of practice or guidelines listed in sub-paragraph (6) that is relevant to the publication in question.
- (6) The codes of practice and guidelines are—
  - (a) BBC Editorial Guidelines;
  - (b) Ofcom Broadcasting Code;
  - (c) Editors' Code of Practice.
- (7) The Secretary of State may by regulations amend the list in sub-paragraph (6).
- (8) Regulations under sub-paragraph (7) are subject to the affirmative resolution procedure.
- (9) For the purposes of this paragraph, the listed GDPR provisions are the following provisions of the [F1UK GDPR] (which may be exempted or derogated from by virtue of Article 85(2) of the [F1UK GDPR])—
  - (a) in Chapter II of the [F2UK GDPR] (principles)—
    - (i) Article 5(1)(a) to (e) (principles relating to processing);
    - (ii) Article 6 (lawfulness);
    - (iii) Article 7 (conditions for consent);
    - (iv) Article 8(1) and (2) (child's consent);
    - (v) Article 9 (processing of special categories of data);
    - (vi) Article 10 (data relating to criminal convictions etc);
    - (vii) Article 11(2) (processing not requiring identification);
  - (b) in Chapter III of the [F3UK GDPR] (rights of the data subject)—
    - (i) Article 13(1) to (3) (personal data collected from data subject: information to be provided);
    - (ii) Article 14(1) to (4) (personal data collected other than from data subject: information to be provided);
    - (iii) Article 15(1) to (3) (confirmation of processing, access to data and safeguards for third country transfers);
    - (iv) Article 16 (right to rectification);
    - (v) Article 17(1) and (2) (right to erasure);
    - (vi) Article 18(1)(a), (b) and (d) (restriction of processing);
    - (vii) Article 19 (notification obligation regarding rectification or erasure of personal data or restriction of processing);
    - (viii) Article 20(1) and (2) (right to data portability);
    - (ix) Article 21(1) (objections to processing);
  - (c) in Chapter IV of the [F4UK GDPR] (controller and processor)—
    - (i) Article 34(1) and (4) (communication of personal data breach to the data subject);
    - (ii) Article 36 (requirement for controller to consult Commissioner prior to high risk processing);
  - (d) in Chapter V of the [F5UK GDPR] (transfers of data to third countries etc), Article 44 (general principles for transfers);
  - [F6](e) .....

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### Textual Amendments

- F1** Words in Sch. 2 para. 26(9) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(21)(a)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F2** Words in Sch. 2 para. 26(9)(a) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(21)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Sch. 2 para. 26(9)(b) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(21)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Words in Sch. 2 para. 26(9)(c) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(21)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5** Words in Sch. 2 para. 26(9)(d) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(21)(b)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Sch. 2 para. 26(9)(e) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 2 para. 92(21)(c)** (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

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### Commencement Information

- I1** Sch. 2 para. 26 in force at Royal Assent for specified purposes, see s. 212(2)(f)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 204(1)(l) inserted by [S.I. 2024/374 Sch. 5 para. 7](#)
- Sch. 3 para. 8(1)(y) added by [2022 c. 18 \(N.I.\) Sch. 3 para. 78\(3\)](#)