Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (United Kingdom General Data Protection Regulation) (Text with EEA relevance)

## CHAPTER I

## General provisions

#### Article 1

# Subject-matter and objectives

1	This Regulation lays down rules relating to the protection of natural persons wit
regard to	o the processing of personal data and rules relating to the free movement of personal
data.	

[ <sup>F1</sup> 2 freedoms	This Regulation contributes to the protection of individuals' fundamental as.]	rights and
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#### **Textual Amendments**

- F1 Art. 1(2) substituted (31.12.2023 immediately before the end of 2023) by The Data Protection (Fundamental Rights and Freedoms) (Amendment) Regulations 2023 (S.I. 2023/1417), regs. 1(2), 2(2)
- F2 Art. 1(3) 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. 1 para. 3 (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)

# Article 2

## Material scope

- ${\sf I}^{\sf F3}$ 1. This Regulation applies to the automated or structured processing of personal data, including
  - a processing in the course of an activity which, immediately before IP completion day, fell outside the scope of EU law, and
  - b processing in the course of an activity which, immediately before IP completion day, fell within the scope of Chapter 2 of Title 5 of the Treaty on European Union (common foreign and security policy activities).
- 1A. This Regulation also applies to the manual unstructured processing of personal data held by an FOI public authority.]
- [F42] This Regulation does not apply to
  - a the processing of personal data by an individual in the course of a purely personal or household activity;

b the processing of personal data by a competent authority for any of the law enforcement purposes (see Part 3 of the 2018 Act);

c	the processing of personal data to which Part 4 of the 2018 Act (intelligence services
	processing) applies.

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- This Regulation shall be without prejudice to the application of [F6the Electronic Commerce (EC Directive) Regulations 2002, in particular the provisions about mere conduits, caching and hosting (see regulations 17 to 19 of those Regulations).]
- [F75. In this Article
  - a 'the automated or structured processing of personal data' means
    - i the processing of personal data wholly or partly by automated means, and
    - ii the processing otherwise than by automated means of personal data which forms part of a filing system or is intended to form part of a filing system;
  - b 'the manual unstructured processing of personal data' means the processing of personal data which is not the automated or structured processing of personal data;
  - c 'FOI public authority' has the same meaning as in Chapter 3 of Part 2 of the 2018 Act (see section 21(5) of that Act);
  - d references to personal data 'held' by an FOI public authority are to be interpreted in accordance with section 21(6) [F8 to (8)] of the 2018 Act;
  - e 'competent authority' and 'law enforcement purposes' have the same meaning as in Part 3 of the 2018 Act (see sections 30 and 31 of that Act).]

## **Textual Amendments**

- F3 Art. 2(1)(1A) substituted for Art. 2(1) (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. 1 para. 4(2) (as amended by S.I. 2020/1586, regs. 1(2), 4(2)) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F4 Art. 2(2) 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. 1 para. 4(3) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F5 Art. 2(3) 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. 1 para. 4(4) (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F6 Words in Art. 2(4) 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. 1 para. 4(5) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F7 Art. 2(5) inserted (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. 1 para. 4(6) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- **F8** Words in Art. 2(5)(d) substituted (25.1.2023) by Advanced Research and Invention Agency Act 2022 (c. 4), s. 13(1), **Sch. 3 para. 18(1**); S.I. 2023/58, reg. 2

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## Article 3

# Territorial scope

- This Regulation applies to the processing of personal data in the context of the activities of an establishment of a controller or a processor in [F9 the United Kingdom], regardless of whether the processing takes place in [F9 the United Kingdom] or not.
- This Regulation applies to the [F10 relevant] processing of personal data of data subjects who are in [F11 the United Kingdom] by a controller or processor not established in [F11 the United Kingdom], where the processing activities are related to:
  - a the offering of goods or services, irrespective of whether a payment of the data subject is required, to such data subjects in [F11]the United Kingdom]; or
  - b the monitoring of their behaviour as far as their behaviour takes place within [F11the United Kingdom].
- [F12A. In paragraph 2, "relevant processing of personal data" means processing to which this Regulation applies, other than processing described in Article 2(1)(a) or (b) or (1A).]
- This Regulation applies to the processing of personal data by a controller not established in [F13the United Kingdom], but in a place where [F14domestic law] applies by virtue of public international law.

# **Textual Amendments**

- F9 Words in Art. 3(1) 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. 1 para. 5(2) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F10 Word in Art. 3(2) inserted (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. 1 para. 5(3)(a) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F11 Words in Art. 3(2) 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. 1 para. 5(3)(b) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F12 Art. 3(2A) inserted (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. 1 para. 5(4) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- Words in Art. 3(3) 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. 1 para. 5(5)(a) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F14 Words in Art. 3(3) 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. 1 para. 5(5)(b) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)

## **Modifications etc. (not altering text)**

C1 Art. 3 modified (31.12.2020) by S.I. 2020/916, art. 4(3)(4) (as amended by The Channel Tunnel (Arrangements with the Kingdom of the Netherlands) Order 2020 (S.I. 2020/916), arts. 1(2)(a), 8(a)(i))

Article 4

#### **Definitions**

For the purposes of this Regulation:

- [F15A1 'the 2018 Act' means the Data Protection Act 2018;
- A2 'domestic law' means the law of the United Kingdom or of a part of the United Kingdom;
- A3 'the Commissioner' means the Information Commissioner (see section 114 of the 2018 Act);
- 1 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- 2 'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction;
- 3 'restriction of processing' means the marking of stored personal data with the aim of limiting their processing in the future;
- 4 'profiling' means any form of automated processing of personal data consisting of the use of personal data to evaluate certain personal aspects relating to a natural person, in particular to analyse or predict aspects concerning that natural person's performance at work, economic situation, health, personal preferences, interests, reliability, behaviour, location or movements;
- 5 'pseudonymisation' means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;
- 6 'filing system' means any structured set of personal data which are accessible according to specific criteria, whether centralised, decentralised or dispersed on a functional or geographical basis;
- 7 'controller' means the natural or legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data [F16 (but see section 6 of the 2018 Act)];
- 8 'processor' means a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller;
- 9 'recipient' means a natural or legal person, public authority, agency or another body, to which the personal data are disclosed, whether a third party or not. However, public authorities which may receive personal data in the framework of a particular inquiry in accordance with [F17] domestic law] shall not be regarded as recipients; the processing of those data by those

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public authorities shall be in compliance with the applicable data protection rules according to the purposes of the processing;

- 10 'third party' means a natural or legal person, public authority, agency or body other than the data subject, controller, processor and persons who, under the direct authority of the controller or processor, are authorised to process personal data;
- [F1810A 'public authority' and 'public body' are to be interpreted in accordance with section 7 of the 2018 Act and provision made under that section;]
- 11 'consent' of the data subject means any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her;
- 'personal data breach' means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;
- 'genetic data' means personal data relating to the inherited or acquired genetic characteristics of a natural person which give unique information about the physiology or the health of that natural person and which result, in particular, from an analysis of a biological sample from the natural person in question;
- 'biometric data' means personal data resulting from specific technical processing relating to the physical, physiological or behavioural characteristics of a natural person, which allow or confirm the unique identification of that natural person, such as facial images or dactyloscopic data;
- 'data concerning health' means personal data related to the physical or mental health of a natural person, including the provision of health care services, which reveal information about his or her health status;

17	'representative' means a natural or legal person established in [F20 the United Kingdom]
who,	designated by the controller or processor in writing pursuant to Article 27, represents the
contr	oller or processor with regard to their respective obligations under this Regulation;

- 18 'enterprise' means a natural or legal person engaged in an economic activity, irrespective of its legal form, including partnerships or associations regularly engaged in an economic activity;
- 19 'group of undertakings' means a controlling undertaking and its controlled undertakings;
- 20 'binding corporate rules' means personal data protection policies which are adhered to by a controller or processor established [F21 in the United Kingdom] for transfers or a set of transfers of personal data to a controller or processor in one or more third countries within a group of undertakings, or group of enterprises engaged in a joint economic activity;

Group of undertakings, of group of enterprises engaged in a joint economic detivity,
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[F2321A 'foreign designated authority' means an authority designated for the purposes of Article 13 of the Data Protection Convention (as defined in section 3 of the 2018 Act) by a party, other than the United Kingdom, which is bound by that Convention;]
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- 25 'information society service' means a service as defined in point (b) of Article 1(1) of Directive (EU) 2015/1535 of the European Parliament and of the Council E25 as it has effect immediately before IP completion day];
- 26 'international organisation' means an organisation and its subordinate bodies governed by public international law, or any other body which is set up by, or on the basis of, an agreement between two or more countries.
- [F2627 'third country' means a country or territory outside the United Kingdom;
- [F2728 references to fundamental rights or fundamental freedoms (however expressed) are to the Convention rights within the meaning of the Human Rights Act 1998.]]

#### **Textual Amendments**

- F15 Arts. 4(A1)-(A3) inserted (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. 1 para. 6(2) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F16 Words in Art. 4(7) 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. 1 para. 6(3) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F17 Words in Art. 4(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. 1 para. 6(4) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F18 Art. 4(10A) inserted (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. 1 para. 6(5) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F19 Art. 4(16) 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. 1 para. 6(6) (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F20 Words in Art. 4(17) 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. 1 para. 6(7) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F21 Words in Art. 4(20) 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. 1 para. 6(8) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F22 Art. 4(21) 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. 1 para. 6(9) (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F23 Art. 4(21A) inserted (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. 1 para. 6(10) (with reg. 5); 2020 c. 1, Sch. 5 para. 1(1)
- F24 Art. 4(22)(23)(24) 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. 1 para. 6(11) (with reg. 5, Sch. 1 para. 80); 2020 c. 1, Sch. 5 para. 1(1)
- F25 Words in Art. 4(25) inserted (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. 1 para. 6(12) (with reg. 5) (as amended by S.I. 2020/1586, regs. 1(2), 4(3)(a); 2020 c. 1, Sch. 5 para. 1(1)

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- **F26** Art. 4(27)(28) inserted (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. 1 para. 6(13)** (with reg. 5) (as amended by S.I. 2020/1586, regs. 1(2), **4(3)(b)**); 2020 c. 1, **Sch. 5 para. 1(1)**
- F27 Art. 4(28) substituted (31.12.2023 immediately before the end of 2023) by The Data Protection (Fundamental Rights and Freedoms) (Amendment) Regulations 2023 (S.I. 2023/1417), regs. 1(2), 2(3)

(1) Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services (OJ L 241, 17.9.2015, p. 1).

## **Changes to legislation:**

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# Changes and effects yet to be applied to the whole legislation item and associated provisions

- Art. 17(1)(g) inserted by 2024 c. 21 s. 31(2)
- Art. 17(4)(5) inserted by 2024 c. 21 s. 31(3)