

SCHEDULE 2

Amendments of the Data Protection Act 2018

- 85.**—(1) Section 205 is amended as follows.
- (2) In subsection (1), in the definition of “enactment”—
- (a) omit “and” at the end of paragraph (d);
 - (b) after paragraph (e) insert—
“and
 - (f) any retained direct EU legislation;”.
- (3) In subsection (1), in the definition of “international obligation of the United Kingdom”, omit paragraph (a).
- (4) After subsection (1) insert—
- “(1A) In this Act, references to a fundamental right or fundamental freedom (however expressed) are to a fundamental right or fundamental freedom which continues to form part of domestic law on and after [F1IP completion day] by virtue of section 4 of the European Union (Withdrawal) Act 2018, as the right or freedom is amended or otherwise modified by the law of the United Kingdom, or of a part of the United Kingdom, from time to time on or after [F1IP completion day].”.
- (5) In subsection (2)—
- (a) before paragraph (a) insert—
“(za) section 119A(10) and (11);”;
 - (b) omit “Chapter 2 or 3 of”.
- (6) Omit subsection (3).
- (7) After subsection (3) insert—
- “(4) In the definition of “the UK GDPR” in section 3(10)—
- (a) the reference to Regulation (EU) 2016/679 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 is to be treated as a reference to that Regulation as modified by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (“the 2019 Regulations”), but
 - (b) nothing in the definition or in paragraph (a) determines whether, where Regulation (EU) 2016/679 is modified on or after [F1IP completion day] by the law of England and Wales, Scotland or Northern Ireland (other than by Schedule 1 to the 2019 Regulations), the reference to Regulation (EU) 2016/679 is then to be read as a reference to that Regulation as modified.
- (5) Subsection (4) is not to be read as implying anything about how other references to Regulation (EU) 2016/679 or references to other retained EU law are to be interpreted.”.

Textual Amendments

- F1** Words in Sch. 2 para. 85 substituted (31.12.2020 immediately before IP completion day) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2020 \(S.I. 2020/1586\)](#), regs. 1(2), **5(2)**

Changes to legislation: There are currently no known outstanding effects for the The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, Paragraph 85. (See end of Document for details)

Commencement Information

- II** Sch. 2 para. 85 in force at 31.12.2020 on IP completion day (in accordance with 2020 c. 1, **Sch. 5 para. 1(1)**), see **reg. 1(2)**

Changes to legislation:

There are currently no known outstanding effects for the The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019, Paragraph 85.