

各國 基因資料庫 法規彙編

英國編

各國基因資料庫法規彙編（英國編）

台灣地區生物資料庫建立與多重疾病多重危險因子之世代追蹤研究

各國基因資料庫法規彙編（英國編）

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Data Protection Act 1998

1998 Chapter 29

Arrangement of Sections

PART I PRELIMINARY

Basic
interpretative
provisions.

1. - (1) In this Act, unless the context otherwise requires-

"data" means information which-

- (a) is being processed by means of equipment operating automatically in response to instructions given for that purpose,
- (b) is recorded with the intention that it should be processed by means of such equipment,
- (c) is recorded as part of a relevant filing system or with the intention that it should form part of a relevant filing system, or
- (d) does not fall within paragraph (a), (b) or (c) but forms part of an accessible record as defined by section 68;

"data controller" means, subject to subsection (4), a person who (either alone or jointly or in common

with other persons) determines the purposes for which and the manner in which any personal data are, or are to be, processed;

"data processor", in relation to personal data, means any person (other than an employee of the data controller) who processes the data on behalf of the data controller;

"data subject" means an individual who is the subject of personal data;

"personal data" means data which relate to a living individual who can be identified-

(a) from those data, or

(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,

and includes any expression of opinion about the individual and any indication of the intentions of the data controller or any other person in respect of the individual;

"processing", in relation to information or data, means obtaining, recording or holding the information or data or carrying out any operation or set of operations on the information or data,

including-

- (a) organisation, adaptation or alteration of the information or data,
- (b) retrieval, consultation or use of the information or data,
- (c) disclosure of the information or data by transmission, dissemination or otherwise making available, or
- (d) alignment, combination, blocking, erasure or destruction of the information or data;

"relevant filing system" means any set of information relating to individuals to the extent that, although the information is not processed by means of equipment operating automatically in response to instructions given for that purpose, the set is structured, either by reference to individuals or by reference to criteria relating to individuals, in such a way that specific information relating to a particular individual is readily accessible.

(2) In this Act, unless the context otherwise requires-

- (a) "obtaining" or "recording", in relation to personal data, includes obtaining or recording

the information to be contained in the data, and

(b) "using" or "disclosing", in relation to personal data, includes using or disclosing the information contained in the data.

(3) In determining for the purposes of this Act whether any information is recorded with the intention-

(a) that it should be processed by means of equipment operating automatically in response to instructions given for that purpose, or

(b) that it should form part of a relevant filing system,

it is immaterial that it is intended to be so processed or to form part of such a system only after being transferred to a country or territory outside the European Economic Area.

(4) Where personal data are processed only for purposes for which they are required by or under any enactment to be processed, the person on whom the obligation to process the data is imposed by or under that enactment is for the purposes of this Act the data controller.

Sensitive

2. In this Act "sensitive personal data" means

personal data. personal data consisting of information as to-

- (a) the racial or ethnic origin of the data subject,
- (b) his political opinions,
- (c) his religious beliefs or other beliefs of a similar nature,
- (d) whether he is a member of a trade union (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
- (e) his physical or mental health or condition,
- (f) his sexual life,
- (g) the commission or alleged commission by him of any offence, or
- (h) any proceedings for any offence committed or alleged to have been committed by him, the disposal of such proceedings or the sentence of any court in such proceedings.

The special
purposes.

3. In this Act "the special purposes" means any one or more of the following-

- (a) the purposes of journalism,
- (b) artistic purposes, and
- (c) literary purposes.

The data protection principles.

4. - (1) References in this Act to the data protection principles are to the principles set out in Part I of Schedule 1.

(2) Those principles are to be interpreted in accordance with Part II of Schedule 1.

(3) Schedule 2 (which applies to all personal data) and Schedule 3 (which applies only to sensitive personal data) set out conditions applying for the purposes of the first principle; and Schedule 4 sets out cases in which the eighth principle does not apply.

(4) Subject to section 27(1), it shall be the duty of a data controller to comply with the data protection principles in relation to all personal data with respect to which he is the data controller.

Application of Act.

5. - (1) Except as otherwise provided by or under section 54, this Act applies to a data controller in respect of any data only if-

(a) the data controller is established in the United Kingdom and the data are processed in the context of that establishment, or

(b) the data controller is established neither in the United Kingdom nor in any other EEA State

but uses equipment in the United Kingdom for processing the data otherwise than for the purposes of transit through the United Kingdom.

(2) A data controller falling within subsection (1)(b) must nominate for the purposes of this Act a representative established in the United Kingdom.

(3) For the purposes of subsections (1) and (2), each of the following is to be treated as established in the United Kingdom-

(a) an individual who is ordinarily resident in the United Kingdom,

(b) a body incorporated under the law of, or of any part of, the United Kingdom,

(c) a partnership or other unincorporated association formed under the law of any part of the United Kingdom, and

(d) any person who does not fall within paragraph (a), (b) or (c) but maintains in the United Kingdom-

(i) an office, branch or agency through which he carries on any activity, or

(ii) a regular practice; and the reference to

establishment in any other EEA State has a corresponding meaning.

The
Commissioner
and the
Tribunal.

6. - (1) The office originally established by section 3(1)(a) of the Data Protection Act 1984 as the office of Data Protection Registrar shall continue to exist for the purposes of this Act but shall be known as the office of Data Protection Commissioner; and in this Act the Data Protection Commissioner is referred to as "the Commissioner".

(2) The Commissioner shall be appointed by Her Majesty by Letters Patent.

(3) For the purposes of this Act there shall continue to be a Data Protection Tribunal (in this Act referred to as "the Tribunal").

(4) The Tribunal shall consist of

(a) a chairman appointed by the Lord Chancellor after consultation with the Lord Advocate,

(b) such number of deputy chairmen so appointed as the Lord Chancellor may determine, and

(c) such number of other members appointed by the Secretary of State as he may determine.

(5) The members of the Tribunal appointed under subsection (4)(a) and (b) shall be-

(a) persons who have a 7 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,

(b) advocates or solicitors in Scotland of at least 7 years' standing, or

(c) members of the bar of Northern Ireland or solicitors of the Supreme Court of Northern Ireland of at least 7 years' standing.

(6) The members of the Tribunal appointed under subsection (4)(c) shall be-

(a) persons to represent the interests of data subjects, and

(b) persons to represent the interests of data controllers.

(7) Schedule 5 has effect in relation to the Commissioner and the Tribunal.

PART II RIGHTS OF DATA SUBJECTS AND OTHERS

Right of access to personal data. 7. - (1) Subject to the following provisions of this section and to sections 8 and 9, an individual is entitled-

(a) to be informed by any data controller whether personal data of which that individual is the data subject are being processed by or on behalf of that data controller,

(b) if that is the case, to be given by the data controller a description of

(i) the personal data of which that individual is the data subject,

(ii) the purposes for which they are being or are to be processed, and

(iii) the recipients or classes of recipients to whom they are or may be disclosed,

(c) to have communicated to him in an intelligible form-

(i) the information constituting any personal data of which that individual is the data subject, and

(ii) any information available to the data controller as to the source of those data, and

(d) where the processing by automatic means of personal data of which that individual is the data subject for the purpose of evaluating matters relating to him such as, for example, his

performance at work, his creditworthiness, his reliability or his conduct, has constituted or is likely to constitute the sole basis for any decision significantly affecting him, to be informed by the data controller of the logic involved in that decision-taking.

(2) A data controller is not obliged to supply any information under subsection (1) unless he has received-

(a) a request in writing, and

(b) except in prescribed cases, such fee (not exceeding the prescribed maximum) as he may require.

(3) A data controller is not obliged to comply with a request under this section unless he is supplied with such information as he may reasonably require in order to satisfy himself as to the identity of the person making the request and to locate the information which that person seeks.

(4) Where a data controller cannot comply with the request without disclosing information relating to another individual who can be identified from that information, he is not obliged to comply with the

request unless-

(a) the other individual has consented to the disclosure of the information to the person making the request, or

(b) it is reasonable in all the circumstances to comply with the request without the consent of the other individual.

(5) In subsection (4) the reference to information relating to another individual includes a reference to information identifying that individual as the source of the information sought by the request; and that subsection is not to be construed as excusing a data controller from communicating so much of the information sought by the request as can be communicated without disclosing the identity of the other individual concerned, whether by the omission of names or other identifying particulars or otherwise.

(6) In determining for the purposes of subsection (4)(b) whether it is reasonable in all the circumstances to comply with the request without the consent of the other individual concerned, regard shall be had, in particular, to-

- (a) any duty of confidentiality owed to the other individual,
- (b) any steps taken by the data controller with a view to seeking the consent of the other individual,
- (c) whether the other individual is capable of giving consent, and
- (d) any express refusal of consent by the other individual.

(7) An individual making a request under this section may, in such cases as may be prescribed, specify that his request is limited to personal data of any prescribed description.

(8) Subject to subsection (4), a data controller shall comply with a request under this section promptly and in any event before the end of the prescribed period beginning with the relevant day.

(9) If a court is satisfied on the application of any person who has made a request under the foregoing provisions of this section that the data controller in question has failed to comply with the request in contravention of those provisions, the court may order him to comply with the request.