

STATUTORY INSTRUMENTS

2004 No. 3391

The Environmental Information Regulations 2004

PART 3 U.K.

Exceptions to the duty to disclose environmental information

Personal data U.K.

13.—^{F1}(1) To the extent that the information requested includes personal data of which the applicant is not the data subject, a public authority must not disclose the personal data if—

- (a) the first condition is satisfied, or
- (b) the second or third condition is satisfied and, in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing it.]

^{F2}(2A) The first condition is that the disclosure of the information to a member of the public otherwise than under these Regulations—

- (a) would contravene any of the data protection principles, or
- (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(2B) The second condition is that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene—

- (a) Article 21 of the ^{F3}UK GDPR] (general processing: right to object to processing), or
- (b) section 99 of the Data Protection Act 2018 (intelligence services processing: right to object to processing).]

^{F4}(3A) The third condition is that—

- (a) on a request under Article 15(1) of the ^{F5}UK GDPR] (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018,
- (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section, or
- (c) on a request under section 94(1)(b) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.]

^{F6}(4)

^{F7}(5A) For the purposes of this regulation a public authority may respond to a request by neither confirming nor denying whether such information exists and is held by the public authority, whether or not it holds such information, to the extent that—

- (a) the condition in paragraph (5B)(a) is satisfied, or

- (b) a condition in paragraph (5B)(b) to (e) is satisfied and in all the circumstances of the case, the public interest in not confirming or denying whether the information exists outweighs the public interest in doing so.
- (5B) The conditions mentioned in paragraph (5A) are—
- (a) giving a member of the public the confirmation or denial—
- (i) would (apart from these Regulations) contravene any of the data protection principles, or
- (ii) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded;
- (b) giving a member of the public the confirmation or denial would (apart from these Regulations) contravene Article 21 of the [F8UK GDPR] or section 99 of the Data Protection Act 2018 (right to object to processing);
- (c) on a request under Article 15(1) of the [F9UK GDPR] (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in paragraph (3A)(a);
- (d) on a request under section 45(1)(a) of the Data Protection Act 2018 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section;
- (e) on a request under section 94(1)(a) of that Act (intelligence services processing: rights of access by the data subject), the information would be withheld in reliance on a provision of Chapter 6 of Part 4 of that Act.]

[F10(6) In determining for the purposes of this regulation whether the lawfulness principle in Article 5(1)(a) of the [F11UK GDPR] would be contravened by the disclosure of information, Article 6(1) of the [F11UK GDPR] (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.]

- F1** Reg. 13(1) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 307\(2\)](#) (with [ss. 117, 209, 210, Sch. 20 para. 60](#)); S.I. 2018/625, reg. 2(1)(g)
- F2** Reg. 13(2A)(2B) substituted for reg. 13(2) (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 307\(3\)](#) (with [ss. 117, 209, 210, Sch. 20 para. 60](#)); S.I. 2018/625, reg. 2(1)(g)
- F3** Words in reg. 13(2B)(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. 3 para. 54](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F4** Reg. 13(3A) substituted for reg. 13(3) (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 307\(4\)](#) (with [ss. 117, 209, 210, Sch. 20 para. 60](#)); S.I. 2018/625, reg. 2(1)(g)
- F5** Words in reg. 13(3A)(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. 3 para. 54](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F6** Reg. 13(4) omitted (25.5.2018) by virtue of [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 307\(5\)](#) (with [ss. 117, 209, 210, Sch. 20 para. 60](#)); S.I. 2018/625, reg. 2(1)(g)
- F7** Reg. 13(5A)(5B) substituted for reg. 13(5) (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 307\(6\)](#) (with [ss. 117, 209, 210, Sch. 20 para. 60](#)); S.I. 2018/625, reg. 2(1)(g)
- F8** Words in reg. 13(5B)(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. 3 para. 54](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in reg. 13(5B)(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. 3 para. 54](#) (with [Sch. 3 para. 112](#)); 2020 c. 1, Sch. 5 para. 1(1)

- F10** Reg. 13(6) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 307(7)** (with ss. 117, 209, 210, Sch. 20 para. 60); S.I. 2018/625, reg. 2(1)(g)
- F11** Words in reg. 13(6) 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. 3 para. 54** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

There are currently no known outstanding effects for the The Environmental Information Regulations 2004, Section 13.