

Certificate reference: DPA/S27/GCHQ

SECTION 27 DATA PROTECTION ACT 2018

CERTIFICATE OF THE SECRETARY OF STATE

1. Whereas:

- 1.1 by section 26(2) of the Data Protection Act 2018 ("the Act") it is provided that personal data is exempt from certain provisions of the Act and the UK GDPR if the exemption from that provision is required for the purpose of safeguarding national security. For information, a full list of these provisions is provided at Annex A.
- 1.2 by section 27(1) it is provided that a certificate signed by a Minister of the Crown certifying that an exemption from all or any of the provisions mentioned in section 26(2) is or at any time was required for the purpose of safeguarding national security in respect of any personal data shall be conclusive evidence of that fact;
- 1.3 by section 27(2), it is provided that a certificate under section 27(1) may identify the personal data to which it applies by means of a general description and may be expressed to have prospective effect.

2. And considering the potentially serious adverse repercussions for the national security of the United Kingdom if the exemptions hereafter identified were not available.

3. And for the reasons set out below:

- 3.1 The intelligence services (the Security Service, the Secret Intelligence Service and the Government Communications Headquarters), where this is necessary in the proper discharge of their respective statutory functions, obtain data from and disclose data to organisations that are subject to the UK GDPR and such organisations cooperate with the intelligence services by processing data for national security purposes on their behalf.
- 3.2 The work of GCHQ requires secrecy.
- 3.3 The general principle of neither confirming nor denying whether the intelligence services process data about an individual, or whether others are processing personal data for, on behalf of, with a view to assisting, working with, or in relation to the functions of the intelligence services is an essential part of that secrecy.
- 3.4 In dealing with requests asserting the rights of data subjects (Part 2, Chapter 3) under the Data Protection Act 2018, the controller will

examine each individual request to determine, after consultation with GCHQ:

- i) whether adherence to that general principle is required for the purpose of safeguarding national security; and
- ii) in the event that such adherence is not required, whether and to what extent the non-communication of any data or any description of data is required for the purpose of safeguarding national security.

4. **Now, therefore,** I, the Right Hon Lord Cameron, being a Minister of the Crown who is a member of the Cabinet, in exercise of the powers conferred by the said section 27(1) do issue this certificate and certify that any personal data that is processed by an organisation as described in Column 1 in the table below are and shall continue to be required to be exempt from those provisions of the Act that are set out in Column 2.

Column 1	Column 2
<p>(a) for, on behalf of, at the request of or with the aid or assistance of GCHQ or</p> <p>(b) where such processing is necessary to facilitate the proper discharge of the functions GCHQ described in section 3 of the Intelligence Services Act 1994</p>	<ul style="list-style-type: none"> i. UK GDPR Article 5(1)(a), so far as it requires processing to be fair and transparent ii. UK GDPR Article 5(1)(b) and (d) iii. UK GDPR Article 10 iv. UK GDPR Articles 13-19 v. UK GDPR Article 21 vi. UK GDPR Article 22 vii. UK GDPR Articles 33-34 viii. UK GDPR Articles 44-49 ix. UK GDPR Article 57(1)(a) and (h); x. UK GDPR Article 58(1)(a), (b), (e), (f); Article 58(2)(c), (e), (f), (g), (j); Article 58(3)(b); Article 58(5). xi. UK GDPR Article 59 xii. Data Protection Act section 115 (3) and (5)-(8) xiii. Data Protection Act section 119

	<ul style="list-style-type: none">xiv. Data Protection Act sections 146xv. Data Protection Act sections 148-151xvi. Data Protection Act section 154xvii. Data Protection Act sections 170-173xviii. Data Protection Act Schedule 15
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Dail Caoimhin

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[Insert name of Minister]

26.6.24

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Dated

[Signature]

26.6.24

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Expires

ANNEX A: provisions of the DPA and UK GDPR to which the national security exemption may be applied if necessary

Provision	Notes
UK GDPR Article 5(1)(a), so far as it requires processing to be fair and transparent	Data protection principles
UK GDPR Article 5(1)(b)-(f) and 5(2)	Data protection principles
UK GDPR Article 7	Conditions for consent
UK GDPR Article 8	Child's consent
UK GDPR Article 10	Criminal convictions data
UK GDPR Article 11	Processing which does not require identification
UK GDPR Articles 12-22	Rights of Data Subjects, Chapter III
UK GDPR Articles 33-34	Communication of personal data breaches
UK GDPR Articles 44-50	Transfers of personal data to third countries or international organisations, Chapter V
UK GDPR Article 57(1)(a) and (h)	Commissioner's duties to monitor and enforce the applied GDPR and to conduct investigations
UK GDPR Article 58	Investigative, corrective, authorisation and advisory powers of Commissioner
UK GDPR Articles 77-82	Remedies, liabilities and penalties
Data Protection Act Section 115(3) and 115(8)	General functions of the Commissioner
Data Protection Act Section 115 (9), so far as it relates to Article 58(2)(i) of the applied GDPR;	General functions of the Commissioner
Data Protection Act section 119	Inspection in accordance with international obligations
Data Protection Act sections 142-154	Commissioner's notices and powers of entry and inspection
Data Protection Act sections 170-173	Offences relating to personal data
Data Protection Act Section 187	Representation of data subjects
Data Protection Act Schedule 15	Powers of entry and inspection