

**SECTION 111 DATA PROTECTION ACT 2018**

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**CERTIFICATE OF THE SECRETARY OF STATE**

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**1. Whereas:**

- 1.1 By section 110 of the Data Protection Act 2018 (“the Act”) it is provided that the processing of personal data is exempt from certain provisions of the Act 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 111(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 110(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 111(2), it is provided that a certificate under section 111(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 work of the intelligence services (the Security Service, the Secret Intelligence Service and the Government Communications Headquarters) of the Crown requires secrecy.
- 3.2 The very nature of the work of the Government Communications Headquarters (GCHQ) requires exemption on national security grounds from those parts of the Act that would for example, limit their ability to perform their statutory functions and that would allow access to GCHQ’s premises by third parties.
- 3.2 The general principle of neither confirming nor denying whether GCHQ, processes 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 GCHQ is an essential part of that secrecy. In dealing with requests for information or access under the Data Protection Act 2018, GCHQ will examine each individual request to determine:

- (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 Jeremy Hunt MP, being a Minister of the Crown who is a member of the Cabinet, in exercise of the powers conferred by the said section 111, do issue this certificate and certify as follows:**

4.1 That any personal data that is processed by GCHQ as described in Column 1 in the table below is and shall continue to be required to be exempt from those provisions of the Act that are set out in Column 2;

4.2 That any personal data that is processed by any other person or body ("third party") as described in Column 1 in the table below, is and shall continue to be exempt in the circumstances specified below from the provisions of the Act set out in Column 2 below;

4.3 The specified circumstances are the processing of personal data by the third party in the course of data processing operations carried out:

(a) for, on behalf of or at the request of GCHQ or

(b) in relation to the functions of GCHQ described in section 3 of the Intelligence Services Act 1994, in both cases where GCHQ is the data controller;

all for the purpose of safeguarding national security, provided that:

- (i) data shall not be exempt from the provisions of sections 93 and 94 of the Data Protection Act 2018 if GCHQ, after considering any request by a data subject for access to relevant personal data, determines that adherence to the principle of neither confirming nor denying whether GCHQ holds that data about an individual is not required for the purpose of safeguarding national security;
- (ii) data shall not be exempt from the provisions of sections 93(1)(b)-(d) and (g), 94(1)(a)-(b), 94(2)(a)-(d) and (g) and 98 of the Data Protection Act 2018 if GCHQ, after considering any request by a data subject for access to relevant personal data, determines that non-communication of that data or any description of that data is not required for the purpose of safeguarding national security.

Column 1	Column 2
<p>a) Personal data processing in performance of the functions of GCHQ described in section 3 of the Intelligence Services Act 1994 including but not limited to:</p> <ul style="list-style-type: none"> <li>• operational data</li> <li>• data relating to human resources (including recruitment candidates, current and former members of staff and contractors)</li> <li>• vetting-related data</li> <li>• data relating to building and personnel security (including CCTV)</li> <li>• data relating to commercial relationships</li> </ul> <p>b) Personal data processing under Part 4 of the Data Protection Act by third parties, including but not limited to:</p> <ul style="list-style-type: none"> <li>• other Government departments</li> <li>• public authorities</li> <li>• commercial organisations</li> </ul> <p>where that processing is:</p> <ul style="list-style-type: none"> <li>• for, on behalf of, or at the request of GCHQ or in relation to its functions described in section 3 of the Intelligence Services Act 1994, and</li> <li>• GCHQ is the data controller.</li> </ul>	<p>Data Protection Act 2018:</p> <ul style="list-style-type: none"> <li>(i) Section 86(1)(b)</li> <li>(ii) Section 89</li> <li>(iii) Section 93(1)(b)-(d) and (g)</li> <li>(iv) Section 94(1)(a)-(b),</li> <li>(v) Section 94(2)(a)-(d) and (g),</li> <li>(vi) Sections 96-97</li> <li>(vii) Section 99(1)-(3)</li> <li>(viii) Section 119</li> <li>(ix) Section 142</li> <li>(x) Section 146</li> <li>(xi) Section 148</li> <li>(xii) Sections 149-151</li> <li>(xiii) Section 154</li> <li>(xiv) Sections 170-173</li> <li>(xv) Schedule 13, paragraphs 1(a), (g) and 2</li> <li>(xvi) Schedule 15</li> </ul>

*Jey*

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[Insert name of Minister]

*1-7-19*

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Dated

*1-7-2024*

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Expires

## ANNEX A

<b>Provision</b>	<b>Notes</b>
Section 86(1)(b)	First data protection principle, duty to be fair and transparent
Section 86(3)-86(7)	Remainder of the first data protection principle
Sections 87-91	Second to sixth data protection principles
Sections 92-100	Chapter 3, rights of the data subject
Section 108	Communication of a personal data breach to the Commissioner
Section 119	Inspection in accordance with international obligations
Sections 142-154	Commissioner's notices and powers of entry and inspection
Sections 170-173	Offences relating to personal data
Sections 174-176	Provisions relating to the special purposes
Schedule 13 paragraphs 1(a), 1(g) and 2	Other general functions of the Commissioner
Schedule 15	Powers of entry and inspection