



STATUTORY INSTRUMENTS.

S.I. No. 313 of 2013



DATA PROTECTION ACT 1988 (SECTION 2A) REGULATIONS 2013

DATA PROTECTION ACT 1988 (SECTION 2A) REGULATIONS 2013

WHEREAS section 2A (inserted by section 4 of the Data Protection (Amendment) Act 2003 (No. 6 of 2003)) of the Data Protection Act 1988 (No. 25 of 1988) provides that personal data shall not be processed by a data controller unless section 2 of that Act is complied with and at least one of a number of conditions specified in that section is met;

AND WHEREAS subsection (1)(d) of the said section 2A provides that one of those conditions is where the processing is necessary for the purposes of the legitimate interests pursued by the data controller or by a third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the fundamental rights and freedoms or legitimate interests of the data subject;

AND WHEREAS subsection (2) of the said section 2A provides that the Minister may, after consultation with the Data Protection Commissioner, by regulations specify particular circumstances in which subsection (1)(d) of section 2A is, or is not, to be taken as satisfied;

AND WHEREAS the processing by an Irish air carrier of certain personal data in respect of which it is a data controller, for the purposes of the disclosure of that data, in the circumstances set out in these regulations, to the Home Secretary of the United Kingdom, is necessary for the purposes of the legitimate interests pursued by that carrier and is also necessary for the purposes of the legitimate interests pursued by the Home Secretary;

NOW I, ALAN SHATTER, Minister for Justice and Equality, in exercise of the powers conferred on me by sections 2A(1)(d) and 2A(2) (inserted by section 4 of the Data Protection (Amendment) Act 2003) of the Data Protection Act 1988 (as adapted by the Justice and Law Reform (Alteration of Name of Department and Title of Minister) Order 2011 (S.I. No. 138 of 2011)), having consulted with the Data Protection Commissioner, make the following regulations:

1. These Regulations may be cited as the Data Protection Act 1988 (Section 2A) Regulations 2013.

2. In these regulations—

“Act of 1988” means the Data Protection Act 1988 (No. 25 of 1988);

“Act of 2003” means the Data Protection Act 2003 (No. 6 of 2003);

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 16th August, 2013.*

“Common Travel Area” means the State, the United Kingdom, the Channel Islands and the Isle of Man;

“Home Department” means the Home Department of the United Kingdom, which is also known as the Home Office;

“Home Secretary” means the Secretary of State for the Home Department;

“Irish air carrier” means an undertaking with a valid operating licence, within the meaning of Regulation (EC) No 1008/2008¹, granted by the Commission for Aviation Regulation;

“relevant information” means, in relation to a person carried or to be carried by an Irish air carrier, the following—

- (a) the number, type, issuing state and expiry date of the travel document used by him or her, as provided to the carrier concerned,
- (b) his or her nationality, as provided to the carrier concerned,
- (c) his or her full names, as provided to the carrier concerned,
- (d) his or her gender, as provided to the carrier concerned,
- (e) his or her date of birth, as provided to the carrier concerned,
- (f) the airport of arrival by the person into the relevant territory or, as the case may be, the airport of departure by the person from the relevant territory,
- (g) the code of transport used,
- (h) the scheduled departure and arrival times of the aircraft concerned,
- (i) the total number of passengers and the total number of crew carried on that aircraft, and
- (j) whether the person concerned is a member of the crew;

“relevant territory” means the United Kingdom, the Channel Islands and the Isle of Man;

“United Kingdom” means the United Kingdom of Great Britain and Northern Ireland.

3. Section 2A(1)(d) (inserted by section 4 of the Act of 2003) of the Act of 1988 is to be taken as satisfied in relation to the processing by an Irish air carrier of relevant information for the purposes of the disclosure of that information, in the circumstances specified in Regulation 4, to the Home Secretary.

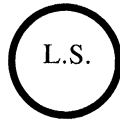
¹Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008; Official Journal of the European Union L 293/3 of 31.10.2008

4. The circumstances referred to in Regulation 3 are the following—

- (a) the relevant information relates to a person who is, or persons who are, carried or to be carried by the Irish air carrier on a flight—
 - (i) which departs from a place outside the Common Travel Area and which arrives in the relevant territory, or
 - (ii) which departs from the relevant territory and which arrives at a place outside the Common Travel Area,

and

- (b) the disclosure concerned has been requested by the Home Secretary.



GIVEN under my Official Seal,
22 June 2013.

ALAN SHATTER,
Minister for Justice and Equality.

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