

Standard Data Protection Clauses to be issued by the Commissioner under S119A(1) Data Protection Act 2018

International Data Transfer Agreements – Transitional Provisions

In force 21 March 2022

Background:

Chapter V of the “UK GDPR” (as defined in Section 3(10) of the Data Protection Act 2018 (“DPA”)) governs international transfers of personal data by controllers and processors (“data exporters”).

Article 46(1) of the UK GDPR allows international transfers of data where the data exporter has provided appropriate safeguards and on condition that enforceable data subject rights and effective legal remedies for data subjects are available.

Paragraph 7 of Part 3 in Schedule 21 of the DPA sets out transitional provisions allowing the continued use by data exporters of standard data protection clauses which were issued under the Data Protection Directive 95/46/EC, as an appropriate safeguard under Article 46(1) of the UK GDPR. In particular, the standard data protection clauses which were issued under European Commission Decision 2001/497/EC and European Commission Decision 2010/87/EU.

In this document, “Transitional Standard Clauses” means those standard data protection clauses which by virtue of Paragraph 7 of Part 3 in Schedule 21 of the DPA provide the appropriate safeguards referred to in Article 46(1) of the UK GDPR.

Paragraph 8 of Part 3 in Schedule 21 of the DPA allows the Information Commissioner to disapply Paragraph 7, and so the use of the Transitional Standard Clauses as appropriate safeguards under Article 46(1) of the UK GDPR.

Disapplication of Paragraph 7 of Part 3 in Schedule 21 of the Data Protection Act 2018

The Commissioner disapplies Paragraph 7 of Part 3 in Schedule 21 of the Data Protection Act 2018, to the extent necessary to give effect to the following:

Contracts concluded on or before 21 September 2022 on the basis of any Transitional Standard Clauses shall continue to provide appropriate safeguards for the purpose of Art 46(1) of the UK GDPR until 21 March 2024, provided that the processing operations that are the subject matter of the contract remain unchanged and reliance on those clauses ensures that the transfer of personal data is subject to appropriate safeguards.