*All legislation extracted from* [*http://www.legislation.gov.uk/*](http://www.legislation.gov.uk/)

**Sale of Good Act 1979**

**10 Stipulations about time.**

(1) Unless a different intention appears from the terms of the contract, stipulations as to time of payment are not of the essence of a contract of sale.

(2) Whether any other stipulation as to time is or is not of the essence of the contract depends on the terms of the contract.

(3) In a contract of sale “month” prima facie means calendar month.

**11 When condition to be treated as warranty.**

(1) This section does not apply to Scotland.

(2) Where a contract of sale is subject to a condition to be fulfilled by the seller, the buyer may waive the condition, or may elect to treat the breach of the condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(3) Whether a stipulation in a contract of sale is a condition, the breach of which may give rise to a right to treat the contract as repudiated, or a warranty, the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated, depends in each case on the construction of the contract; and a stipulation may be a condition, though called a warranty in the contract.

(4) Subject to section 35A below Where a contract of sale is not severable and the buyer has accepted the goods or part of them, the breach of a condition to be fulfilled by the seller can only be treated as a breach of warranty, and not as a ground for rejecting the goods and treating the contract as repudiated, unless there is an express or implied term of the contract to that effect.

(4A) Subsection (4) does not apply to a contract to which Chapter 2 of Part 1 of the Consumer Rights Act 2015 applies (but see the provision made about such contracts in sections 19 to 22 of that Act).

(6) Nothing in this section affects a condition or warranty whose fulfilment is excused by law by reason of impossibility or otherwise.

(7) Paragraph 2 of Schedule 1 below applies in relation to a contract made before 22 April 1967 or (in the application of this Act to Northern Ireland) 28 July 1967.

#### 12 Implied terms about title, etc.

(1) In a contract of sale, other than one to which subsection (3) below applies, there is an implied term on the part of the seller that in the case of a sale he has a right to sell the goods, and in the case of an agreement to sell he will have such a right at the time when the property is to pass.

(2) In a contract of sale, other than one to which subsection (3) below applies, there is also an implied term that—

(a) the goods are free, and will remain free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the buyer before the contract is made, and

(b) the buyer will enjoy quiet possession of the goods except so far as it may be disturbed by the owner or other person entitled to the benefit of any charge or encumbrance so disclosed or known.

(3) This subsection applies to a contract of sale in the case of which there appears from the contract or is to be inferred from its circumstances an intention that the seller should transfer only such title as he or a third person may have.

(4) In a contract to which subsection (3) above applies there is an implied term that all charges or encumbrances known to the seller and not known to the buyer have been disclosed to the buyer before the contract is made.

(5) In a contract to which subsection (3) above applies there is also an implied term that none of the following will disturb the buyer’s quiet possession of the goods, namely—

(a) the seller;

(b) in a case where the parties to the contract intend that the seller should transfer only such title as a third person may have, that person;

(c) anyone claiming through or under the seller or that third person otherwise than under a charge or encumbrance disclosed or known to the buyer before the contract is made.

(5A) As regards England and Wales and Northern Ireland, the term implied by subsection (1) above is a condition and the terms implied by subsections (2), (4) and (5) above are warranties.

(6) Paragraph 3 of Schedule 1 below applies in relation to a contract made before 18 May 1973.

(7)This section does not apply to a contract to which Chapter 2 of Part 1 of the Consumer Rights Act 2015 applies (but see the provision made about such contracts in section 17 of that Act).

#### 13 Sale by description.

(1) Where there is a contract for the sale of goods by description, there is an implied term that the goods will correspond with the description.

(1A)As regards England and Wales and Northern Ireland, the term implied by subsection (1) above is a condition.

(2) If the sale is by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description.

(3) A sale of goods is not prevented from being a sale by description by reason only that, being exposed for sale or hire, they are selected by the buyer.

(4) Paragraph 4 of Schedule 1 below applies in relation to a contract made before 18 May 1973.

(5)This section does not apply to a contract to which Chapter 2 of Part 1 of the Consumer Rights Act 2015 applies (but see the provision made about such contracts in section 11 of that Act).

#### 14 Implied terms about quality or fitness.

(1) Except as provided by this section and section 15 below and subject to any other enactment, there is no implied term about the quality or fitness for any particular purpose of goods supplied under a contract of sale.

(2) Where the seller sells goods in the course of a business, there is an implied term that the goods supplied under the contract are of satisfactory quality.

(2A) For the purposes of this Act, goods are of satisfactory quality if they meet the standard that a reasonable person would regard as satisfactory, taking account of any description of the goods, the price (if relevant) and all the other relevant circumstances.

(2B) For the purposes of this Act, the quality of goods includes their state and condition and the following (among others) are in appropriate cases aspects of the quality of goods—

(a) fitness for all the purposes for which goods of the kind in question are commonly supplied,

(b) appearance and finish,

(c) freedom from minor defects,

(d) safety, and

(e) durability.

(2C) The term implied by subsection (2) above does not extend to any matter making the quality of goods unsatisfactory—

(a) which is specifically drawn to the buyer’s attention before the contract is made,

(b) where the buyer examines the goods before the contract is made, which that examination ought to reveal, or

(c) in the case of a contract for sale by sample, which would have been apparent on a reasonable examination of the sample.

(3) Where the seller sells goods in the course of a business and the buyer, expressly or by implication, makes known—

(a) to the seller, or

(b) where the purchase price or part of it is payable by instalments and the goods were previously sold by a credit-broker to the seller, to that credit-broker,

any particular purpose for which the goods are being bought, there is an implied term that the goods supplied under the contract are reasonably fit for that purpose, whether or not that is a purpose for which such goods are commonly supplied, except where the circumstances show that the buyer does not rely, or that it is unreasonable for him to rely, on the skill or judgment of the seller or credit-broker.

(4) An implied term about quality or fitness for a particular purpose may be annexed to a contract of sale by usage.

(5) The preceding provisions of this section apply to a sale by a person who in the course of a business is acting as agent for another as they apply to a sale by a principal in the course of a business, except where that other is not selling in the course of a business and either the buyer knows that fact or reasonable steps are taken to bring it to the notice of the buyer before the contract is made.

(6) As regards England and Wales and Northern Ireland, the terms implied by subsections (2) and (3) above are conditions.

(7) Paragraph 5 of Schedule 1 below applies in relation to a contract made on or after 18 May 1973 and before the appointed day, and paragraph 6 in relation to one made before 18 May 1973.

(8) In subsection (7) above and paragraph 5 of Schedule 1 below references to the appointed day are to the day appointed for the purposes of those provisions by an order of the Secretary of State made by statutory instrument.

(9) This section does not apply to a contract to which Chapter 2 of Part 1 of the Consumer Rights Act 2015 applies (but see the provision made about such contracts in sections 9, 10 and 18 of that Act).

**Mental Capacity Act 2005**

#### 9 Lasting powers of attorney

(1) A lasting power of attorney is a power of attorney under which the donor (“P”) confers on the donee (or donees) authority to make decisions about all or any of the following—

(a) P's personal welfare or specified matters concerning P's personal welfare, and

(b) P's property and affairs or specified matters concerning P's property and affairs,

and which includes authority to make such decisions in circumstances where P no longer has capacity.

(2) A lasting power of attorney is not created unless—

(a) section 10 is complied with,

(b) an instrument conferring authority of the kind mentioned in subsection (1) is made and registered in accordance with Schedule 1, and

(c) at the time when P executes the instrument, P has reached 18 and has capacity to execute it.

(3) An instrument which—

(a) purports to create a lasting power of attorney, but

(b) does not comply with this section, section 10 or Schedule 1,

confers no authority.

(4) The authority conferred by a lasting power of attorney is subject to—

(a) the provisions of this Act and, in particular, sections 1 (the principles) and 4 (best interests), and

(b) any conditions or restrictions specified in the instrument.

#### 10 Appointment of donees

(1) A donee of a lasting power of attorney must be—

(a) an individual who has reached 18, or

(b) if the power relates only to P's property and affairs, either such an individual or a trust corporation.

(2) An individual who is bankrupt**[[F1](http://www.legislation.gov.uk/ukpga/2005/9/part/1/crossheading/lasting-powers-of-attorney" \l "commentary-key-b326df01301b805e49b9ef0d2b7c9bd2" \o "View the commentary text for this item)**or is a person in relation to whom a debt relief order is made**]** may not be appointed as donee of a lasting power of attorney in relation to P's property and affairs.

(3) Subsections (4) to (7) apply in relation to an instrument under which two or more persons are to act as donees of a lasting power of attorney.

(4) The instrument may appoint them to act—

(a) jointly,

(b) jointly and severally, or

(c) jointly in respect of some matters and jointly and severally in respect of others.

(5) To the extent to which it does not specify whether they are to act jointly or jointly and severally, the instrument is to be assumed to appoint them to act jointly.

(6) If they are to act jointly, a failure, as respects one of them, to comply with the requirements of subsection (1) or (2) or Part 1 or 2 of Schedule 1 prevents a lasting power of attorney from being created.

(7) If they are to act jointly and severally, a failure, as respects one of them, to comply with the requirements of subsection (1) or (2) or Part 1 or 2 of Schedule 1—

(a) prevents the appointment taking effect in his case, but

(b) does not prevent a lasting power of attorney from being created in the case of the other or others.

(8) An instrument used to create a lasting power of attorney—

(a) cannot give the donee (or, if more than one, any of them) power to appoint a substitute or successor, but

(b) may itself appoint a person to replace the donee (or, if more than one, any of them) on the occurrence of an event mentioned in section 13(6)(a) to (d) which has the effect of terminating the donee's appointment.

#### 11 Lasting powers of attorney: restrictions

(1) A lasting power of attorney does not authorise the donee (or, if more than one, any of them) to do an act that is intended to restrain P, unless three conditions are satisfied.

(2) The first condition is that P lacks, or the donee reasonably believes that P lacks, capacity in relation to the matter in question.

(3) The second is that the donee reasonably believes that it is necessary to do the act in order to prevent harm to P.

(4) The third is that the act is a proportionate response to—

(a) the likelihood of P's suffering harm, and

(b) the seriousness of that harm.

(5) For the purposes of this section, the donee restrains P if he—

(a) uses, or threatens to use, force to secure the doing of an act which P resists, or

(b) restricts P's liberty of movement, whether or not P resists,

or if he authorises another person to do any of those things.

(7) Where a lasting power of attorney authorises the donee (or, if more than one, any of them) to make decisions about P's personal welfare, the authority—

(a) does not extend to making such decisions in circumstances other than those where P lacks, or the donee reasonably believes that P lacks, capacity,

(b) is subject to sections 24 to 26 (advance decisions to refuse treatment), and

(c) extends to giving or refusing consent to the carrying out or continuation of a treatment by a person providing health care for P.

(8) But subsection (7)(c)—

(a) does not authorise the giving or refusing of consent to the carrying out or continuation of life-sustaining treatment, unless the instrument contains express provision to that effect, and

(b) is subject to any conditions or restrictions in the instrument.

#### 12 Scope of lasting powers of attorney: gifts

(1) Where a lasting power of attorney confers authority to make decisions about P's property and affairs, it does not authorise a donee (or, if more than one, any of them) to dispose of the donor's property by making gifts except to the extent permitted by subsection (2).

(2) The donee may make gifts—

(a) on customary occasions to persons (including himself) who are related to or connected with the donor, or

(b) to any charity to whom the donor made or might have been expected to make gifts,

if the value of each such gift is not unreasonable having regard to all the circumstances and, in particular, the size of the donor's estate.

(3) “Customary occasion” means—

(a) the occasion or anniversary of a birth, a marriage or the formation of a civil partnership, or

(b) any other occasion on which presents are customarily given within families or among friends or associates.

(4) Subsection (2) is subject to any conditions or restrictions in the instrument.

#### 13 Revocation of lasting powers of attorney etc.

(1) This section applies if—

(a) P has executed an instrument with a view to creating a lasting power of attorney, or

(b) a lasting power of attorney is registered as having been conferred by P,

and in this section references to revoking the power include revoking the instrument.

(2) P may, at any time when he has capacity to do so, revoke the power.

(3) P's bankruptcy, or the making of a debt relief order (under Part 7A of the Insolvency Act 1986) in respect of P, revokes the power so far as it relates to P's property and affairs.

(4) But where P is bankrupt merely because an interim bankruptcy restrictions order has effect in respect of him or where P is subject to an interim debt relief restrictions order (under Schedule 4ZB of the Insolvency Act 1986), the power is suspended, so far as it relates to P's property and affairs, for so long as the order has effect.

(5) The occurrence in relation to a donee of an event mentioned in subsection (6)—

(a) terminates his appointment, and

(b) except in the cases given in subsection (7), revokes the power.

(6) The events are—

(a) the disclaimer of the appointment by the donee in accordance with such requirements as may be prescribed for the purposes of this section in regulations made by the Lord Chancellor,

(b) subject to subsections (8) and (9), the death or bankruptcy of the donee**[**[**F5**](http://www.legislation.gov.uk/ukpga/2005/9/part/1/crossheading/lasting-powers-of-attorney#commentary-key-5303f5ed953792d880a85361fcdabc50)or the making of a debt relief order (under Part 7A of the Insolvency Act 1986) in respect of the donee**]** or, if the donee is a trust corporation, its winding-up or dissolution,

(c) subject to subsection (11), the dissolution or annulment of a marriage or civil partnership between the donor and the donee,

(d) the lack of capacity of the donee.

(7) The cases are—

(a) the donee is replaced under the terms of the instrument,

(b) he is one of two or more persons appointed to act as donees jointly and severally in respect of any matter and, after the event, there is at least one remaining donee.

(8) The bankruptcy of a done or the making of a debt relief order (under Part 7A of the Insolvency Act 1986) in respect of a donee does not terminate his appointment, or revoke the power, in so far as his authority relates to P's personal welfare.

(9) Where the donee is bankrupt merely because an interim bankruptcy restrictions order has effect in respect of him or where the donee is subject to an interim debt relief restrictions order (under Schedule 4ZB of the Insolvency Act 1986), his appointment and the power are suspended, so far as they relate to P's property and affairs, for so long as the order has effect.

(10) Where the donee is one of two or more appointed to act jointly and severally under the power in respect of any matter, the reference in subsection (9) to the suspension of the power is to its suspension in so far as it relates to that donee.

(11) The dissolution or annulment of a marriage or civil partnership does not terminate the appointment of a donee, or revoke the power, if the instrument provided that it was not to do so.

#### 14 Protection of donee and others if no power created or power revoked

(1) Subsections (2) and (3) apply if—

(a) an instrument has been registered under Schedule 1 as a lasting power of attorney, but

(b) a lasting power of attorney was not created,

whether or not the registration has been cancelled at the time of the act or transaction in question.

(2) A donee who acts in purported exercise of the power does not incur any liability (to P or any other person) because of the non-existence of the power unless at the time of acting he—

(a) knows that a lasting power of attorney was not created, or

(b) is aware of circumstances which, if a lasting power of attorney had been created, would have terminated his authority to act as a donee.

(3) Any transaction between the donee and another person is, in favour of that person, as valid as if the power had been in existence, unless at the time of the transaction that person has knowledge of a matter referred to in subsection (2).

(4) If the interest of a purchaser depends on whether a transaction between the donee and the other person was valid by virtue of subsection (3), it is conclusively presumed in favour of the purchaser that the transaction was valid if—

(a) the transaction was completed within 12 months of the date on which the instrument was registered, or

(b) the other person makes a statutory declaration, before or within 3 months after the completion of the purchase, that he had no reason at the time of the transaction to doubt that the donee had authority to dispose of the property which was the subject of the transaction.

(5) In its application to a lasting power of attorney which relates to matters in addition to P's property and affairs, section 5 of the Powers of Attorney Act 1971 (c. 27) (protection where power is revoked) has effect as if references to revocation included the cessation of the power in relation to P's property and affairs.

(6) Where two or more donees are appointed under a lasting power of attorney, this section applies as if references to the donee were to all or any of them.

**Equality Act 2010**

**Chapter 2 Prohibited Conduct**

##### **13 Direct discrimination**

(1) A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others.

(2) If the protected characteristic is age, A does not discriminate against B if A can show A's treatment of B to be a proportionate means of achieving a legitimate aim.

(3) If the protected characteristic is disability, and B is not a disabled person, A does not discriminate against B only because A treats or would treat disabled persons more favourably than A treats B.

(4) If the protected characteristic is marriage and civil partnership, this section applies to a contravention of Part 5 (work) only if the treatment is because it is B who is married or a civil partner.

(5) If the protected characteristic is race, less favourable treatment includes segregating B from others.

(6) If the protected characteristic is sex—

(a) less favourable treatment of a woman includes less favourable treatment of her because she is breast-feeding;

(b) in a case where B is a man, no account is to be taken of special treatment afforded to a woman in connection with pregnancy or childbirth.

(7) Subsection (6)(a) does not apply for the purposes of Part 5 (work).

(8) This section is subject to sections 17(6) and 18(7).

##### **15 Discrimination arising from disability**

(1) A person (A) discriminates against a disabled person (B) if—

(a) A treats B unfavourably because of something arising in consequence of B's disability, and

(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.

##### **16 Gender reassignment discrimination: cases of absence from work**

(1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of gender reassignment.

(2) A person (A) discriminates against a transsexual person (B) if, in relation to an absence of B's that is because of gender reassignment, A treats B less favourably than A would treat B if—

(a) B's absence was because of sickness or injury, or

(b) B's absence was for some other reason and it is not reasonable for B to be treated less favourably.

(3) A person's absence is because of gender reassignment if it is because the person is proposing to undergo, is undergoing or has undergone the process (or part of the process) mentioned in section 7(1).

##### **17 Pregnancy and maternity discrimination: non-work cases**

(1) This section has effect for the purposes of the application to the protected characteristic of pregnancy and maternity of—

(a) Part 3 (services and public functions);

(b) Part 4 (premises);

(c) Part 6 (education);

(d) Part 7 (associations).

(2) A person (A) discriminates against a woman if A treats her unfavourably because of a pregnancy of hers.

(3) A person (A) discriminates against a woman if, in the period of 26 weeks beginning with the day on which she gives birth, A treats her unfavourably because she has given birth.

(4) The reference in subsection (3) to treating a woman unfavourably because she has given birth includes, in particular, a reference to treating her unfavourably because she is breast-feeding.

(5) For the purposes of this section, the day on which a woman gives birth is the day on which—

(a) she gives birth to a living child, or

(b) she gives birth to a dead child (more than 24 weeks of the pregnancy having passed).

(6) Section 13, so far as relating to sex discrimination, does not apply to anything done in relation to a woman in so far as—

(a) it is for the reason mentioned in subsection (2), or

(b) it is in the period, and for the reason, mentioned in subsection (3).

##### **18 Pregnancy and maternity discrimination: work cases**

(1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of pregnancy and maternity.

(2) A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably —

(a) because of the pregnancy, or

(b) because of illness suffered by her as a result of it.

(3) A person (A) discriminates against a woman if A treats her unfavourably because she is on compulsory maternity leave.

(4) A person (A) discriminates against a woman if A treats her unfavourably because she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave.

(5) For the purposes of subsection (2), if the treatment of a woman is in implementation of a decision taken in the protected period, the treatment is to be regarded as occurring in that period (even if the implementation is not until after the end of that period).

(6) The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends—

(a) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy;

(b) if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.

(7) Section 13, so far as relating to sex discrimination, does not apply to treatment of a woman in so far as—

(a) it is in the protected period in relation to her and is for a reason mentioned in paragraph (a) or (b) of subsection (2), or

(b) it is for a reason mentioned in subsection (3) or (4).

##### **19 Indirect discrimination**

(1) A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.

(2) For the purposes of subsection (1), a provision, criterion or practice is discriminatory in relation to a relevant protected characteristic of B's if—

(a) A applies, or would apply, it to persons with whom B does not share the characteristic,

(b) it puts, or would put, persons with whom B shares the characteristic at a particular disadvantage when compared with persons with whom B does not share it,

(c) it puts, or would put, B at that disadvantage, and

(d) A cannot show it to be a proportionate means of achieving a legitimate aim.

(3) The relevant protected characteristics are—

* age;
* disability;
* gender reassignment;
* marriage and civil partnership;
* race;
* religion or belief;
* sex;
* sexual orientation.

#### *Adjustments for disabled persons*

##### **20 Duty to make adjustments**

(1) Where this Act imposes a duty to make reasonable adjustments on a person, this section, sections 21 and 22 and the applicable Schedule apply; and for those purposes, a person on whom the duty is imposed is referred to as A.

(2) The duty comprises the following three requirements.

(3) The first requirement is a requirement, where a provision, criterion or practice of A's puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(4) The second requirement is a requirement, where a physical feature puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to avoid the disadvantage.

(5) The third requirement is a requirement, where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, to take such steps as it is reasonable to have to take to provide the auxiliary aid.

(6) Where the first or third requirement relates to the provision of information, the steps which it is reasonable for A to have to take include steps for ensuring that in the circumstances concerned the information is provided in an accessible format.

(7) A person (A) who is subject to a duty to make reasonable adjustments is not (subject to express provision to the contrary) entitled to require a disabled person, in relation to whom A is required to comply with the duty, to pay to any extent A's costs of complying with the duty.

(8) A reference in section 21 or 22 or an applicable Schedule to the first, second or third requirement is to be construed in accordance with this section.

(9) In relation to the second requirement, a reference in this section or an applicable Schedule to avoiding a substantial disadvantage includes a reference to—

(a) removing the physical feature in question,

(b) altering it, or

(c) providing a reasonable means of avoiding it.

(10) A reference in this section, section 21 or 22 or an applicable Schedule (apart from paragraphs 2 to 4 of Schedule 4) to a physical feature is a reference to—

(a) a feature arising from the design or construction of a building,

(b) a feature of an approach to, exit from or access to a building,

(c) a fixture or fitting, or furniture, furnishings, materials, equipment or other chattels, in or on premises, or

(d) any other physical element or quality.

(11) A reference in this section, section 21 or 22 or an applicable Schedule to an auxiliary aid includes a reference to an auxiliary service.

(12) A reference in this section or an applicable Schedule to chattels is to be read, in relation to Scotland, as a reference to moveable property.

(13) The applicable Schedule is, in relation to the Part of this Act specified in the first column of the Table, the Schedule specified in the second column.

##### **26 Harassment**

(1) A person (A) harasses another (B) if—

(a) A engages in unwanted conduct related to a relevant protected characteristic, and

(b) the conduct has the purpose or effect of—

(i) violating B's dignity, or

(ii) creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

(2) A also harasses B if—

(a) A engages in unwanted conduct of a sexual nature, and

(b) the conduct has the purpose or effect referred to in subsection (1)(b).

(3) A also harasses B if—

(a) A or another person engages in unwanted conduct of a sexual nature or that is related to gender reassignment or sex,

(b) the conduct has the purpose or effect referred to in subsection (1)(b), and

(c) because of B's rejection of or submission to the conduct, A treats B less favourably than A would treat B if B had not rejected or submitted to the conduct.

(4) In deciding whether conduct has the effect referred to in subsection (1)(b), each of the following must be taken into account—

(a) the perception of B;

(b) the other circumstances of the case;

(c) whether it is reasonable for the conduct to have that effect.

(5) The relevant protected characteristics are—

* age;
* disability;
* gender reassignment;
* race;
* religion or belief;
* sex;
* sexual orientation.

##### **27 Victimisation**

(1) A person (A) victimises another person (B) if A subjects B to a detriment because—

(a) B does a protected act, or

(b) A believes that B has done, or may do, a protected act.

(2) Each of the following is a protected act—

(a) bringing proceedings under this Act;

(b) giving evidence or information in connection with proceedings under this Act;

(c) doing any other thing for the purposes of or in connection with this Act;

(d) making an allegation (whether or not express) that A or another person has contravened this Act.

(3) Giving false evidence or information, or making a false allegation, is not a protected act if the evidence or information is given, or the allegation is made, in bad faith.

(4) This section applies only where the person subjected to a detriment is an individual.

(5) The reference to contravening this Act includes a reference to committing a breach of an equality clause or rule.

**Data Protection Act 2018**

**6 Meaning of “controller”**

(1) The definition of “controller” in Article 4(7) of the GDPR has effect subject to—

(a) subsection (2),

(b) section 209, and

(c) section 210.

(2) For the purposes of the GDPR, where personal data is processed only—

(a) for purposes for which it is required by an enactment to be processed, and

(b) by means by which it is required by an enactment to be processed,the person on whom the obligation to process the data is imposed by the enactment (or, if different, one of the enactments) is the controller.

**7 Meaning of “public authority” and “public body”**

(1) For the purposes of the GDPR, the following (and only the following) are “public authorities” and “public bodies” under the law of the United Kingdom—

(a) a public authority as defined by the Freedom of Information Act 2000,

(b) a Scottish public authority as defined by the Freedom of Information (Scotland) Act 2002 (asp 13), and

(c) an authority or body specified or described by the Secretary of State in regulations,subject to subsections (2), (3) and (4).

(2) An authority or body that falls within subsection (1) is only a “public authority” or “public body” for the purposes of the GDPR when performing a task carried out in the public interest or in the exercise of official authority vested in it.

(3) The references in subsection (1)(a) and (b) to public authorities and Scottish public authorities as defined by the Freedom of Information Act 2000 and the Freedom of Information (Scotland) Act 2002 (asp 13) do not include any of the following that fall within those definitions—

(a) a parish council in England;

(b) a community council in Wales;

(c) a community council in Scotland;

(d) a parish meeting constituted under section 13 of the Local Government Act 1972;

(e) a community meeting constituted under section 27 of that Act;

(f) charter trustees constituted—

(i) under section 246 of that Act,

(ii) under Part 1 of the Local Government and Public Involvement in Health Act 2007, or

(iii) by the Charter Trustees Regulations 1996 (S.I. 1996/263).

(4) The Secretary of State may by regulations provide that a person specified or described in the regulations that is a public authority described in subsection (1)(a) or (b) is not a “public authority” or “public body” for the purposes of the GDPR.

(5) Regulations under this section are subject to the affirmative resolution procedure.

**8 Lawfulness of processing: public interest etc**

In Article 6(1) of the GDPR (lawfulness of processing), the reference in point (e) to processing of personal data that is necessary for the performance of a task carried out in the public interest or in the exercise of the controller's official authority includes processing of personal data that is necessary for—

(a) the administration of justice,

(b) the exercise of a function of either House of Parliament,

(c) the exercise of a function conferred on a person by an enactment or rule of law,

(d) the exercise of a function of the Crown, a Minister of the Crown or a government department, or

(e) an activity that supports or promotes democratic engagement.

**9 Child's consent in relation to information society services**

In Article 8(1) of the GDPR (conditions applicable to child's consent in relation to information society services)—

(a) references to “16 years” are to be read as references to “13 years”, and

(b) the reference to “information society services” does not include preventive or counselling services.

**10 Special categories of personal data and criminal convictions etc data**

(1) Subsections (2) and (3) make provision about the processing of personal data described in Article 9(1) of the GDPR (prohibition on processing of special categories of personal data) in reliance on an exception in one of the following points of Article 9(2)—

(a) point (b) (employment, social security and social protection);

(b) point (g) (substantial public interest);

(c) point (h) (health and social care);

(d) point (i) (public health);

(e) point (j) (archiving, research and statistics).

(2) The processing meets the requirement in point (b), (h), (i) or (j) of Article 9(2) of the GDPR for authorisation by, or a basis in, the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 1 of Schedule 1.

(3) The processing meets the requirement in point (g) of Article 9(2) of the GDPR for a basis in the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 2 of Schedule 1.

(4) Subsection (5) makes provision about the processing of personal data relating to criminal convictions and offences or related security measures that is not carried out under the control of official authority.

(5) The processing meets the requirement in Article 10 of the GDPR for authorisation by the law of the United Kingdom or a part of the United Kingdom only if it meets a condition in Part 1, 2 or 3 of Schedule 1.

(6) The Secretary of State may by regulations—

(a) amend Schedule 1—

(i) by adding or varying conditions or safeguards, and

(ii) by omitting conditions or safeguards added by regulations under this section, and

(b) consequentially amend this section.

(7) Regulations under this section are subject to the affirmative resolution procedure.

**11 Special categories of personal data etc: supplementary**

(1) For the purposes of Article 9(2)(h) of the GDPR (processing for health or social care purposes etc), the circumstances in which the processing of personal data is carried out subject to the conditions and safeguards referred to in Article 9(3) of the GDPR (obligation of secrecy) include circumstances in which it is carried out—

(a) by or under the responsibility of a health professional or a social work professional, or

(b) by another person who in the circumstances owes a duty of confidentiality under an enactment or rule of law.

(2) In Article 10 of the GDPR and section 10, references to personal data relating to criminal convictions and offences or related security measures include personal data relating to—

(a) the alleged commission of offences by the data subject, or

(b) proceedings for an offence committed or alleged to have been committed by the data subject or the disposal of such proceedings, including sentencing.

**12 Limits on fees that may be charged by controllers**

(1) The Secretary of State may by regulations specify limits on the fees that a controller may charge in reliance on—

(a) Article 12(5) of the GDPR (reasonable fees when responding to manifestly unfounded or excessive requests), or

(b) Article 15(3) of the GDPR (reasonable fees for provision of further copies).

(2) The Secretary of State may by regulations—

(a) require controllers of a description specified in the regulations to produce and publish guidance about the fees that they charge in reliance on those provisions, and

(b) specify what the guidance must include.

(3) Regulations under this section are subject to the negative resolution procedure.

**13 Obligations of credit reference agencies**

(1) This section applies where a controller is a credit reference agency (within the meaning of section 145(8) of the Consumer Credit Act 1974).

(2) The controller's obligations under Article 15(1) to (3) of the GDPR (confirmation of processing, access to data and safeguards for third country transfers) are taken to apply only to personal data relating to the data subject's financial standing, unless the data subject has indicated a contrary intention.

(3) Where the controller discloses personal data in pursuance of Article 15(1) to (3) of the GDPR, the disclosure must be accompanied by a statement informing the data subject of the data subject's rights under section 159 of the Consumer Credit Act 1974 (correction of wrong information).

**14 Automated decision-making authorised by law: safeguards**

(1) This section makes provision for the purposes of Article 22(2)(b) of the GDPR (exception from Article 22(1) of the GDPR for significant decisions based solely on automated processing that are authorised by law and subject to safeguards for the data subject's rights, freedoms and legitimate interests).

(2) A decision is a “significant decision” for the purposes of this section if, in relation to a data subject, it—

(a) produces legal effects concerning the data subject, or

(b) similarly significantly affects the data subject.

(3) A decision is a “qualifying significant decision” for the purposes of this section if—

(a) it is a significant decision in relation to a data subject,

(b) it is required or authorised by law, and

(c) it does not fall within Article 22(2)(a) or (c) of the GDPR (decisions necessary to a contract or made with the data subject's consent).

(4) Where a controller takes a qualifying significant decision in relation to a data subject based solely on automated processing—

(a) the controller must, as soon as reasonably practicable, notify the data subject in writing that a decision has been taken based solely on automated processing, and

(b) the data subject may, before the end of the period of 1 month beginning with receipt of the notification, request the controller to—

(i) reconsider the decision, or

(ii) take a new decision that is not based solely on automated processing.

(5) If a request is made to a controller under subsection (4), the controller must, within the period described in Article 12(3) of the GDPR—

(a) consider the request, including any information provided by the data subject that is relevant to it,

(b) comply with the request, and

(c) by notice in writing inform the data subject of—

(i) the steps taken to comply with the request, and

(ii) the outcome of complying with the request.

(6) In connection with this section, a controller has the powers and obligations under Article 12 of the GDPR (transparency, procedure for extending time for acting on request, fees, manifestly unfounded or excessive requests etc) that apply in connection with Article 22 of the GDPR.

(7) The Secretary of State may by regulations make such further provision as the Secretary of State considers appropriate to provide suitable measures to safeguard a data subject's rights, freedoms and legitimate interests in connection with the taking of qualifying significant decisions based solely on automated processing.

(8) Regulations under subsection (7)—

(a) may amend this section, and

(b) are subject to the affirmative resolution procedure.

**15 Exemptions etc**

(1) Schedules 2, 3 and 4 make provision for exemptions from, and restrictions and adaptations of the application of, rules of the GDPR.

(2) In Schedule 2—

(a) Part 1 makes provision adapting or restricting the application of rules contained in Articles 13 to 21 and 34 of the GDPR in specified circumstances, as allowed for by Article 6(3) and Article 23(1) of the GDPR;

(b) Part 2 makes provision restricting the application of rules contained in Articles 13 to 21 and 34 of the GDPR in specified circumstances, as allowed for by Article 23(1) of the GDPR;

(c) Part 3 makes provision restricting the application of Article 15 of the GDPR where this is necessary to protect the rights of others, as allowed for by Article 23(1) of the GDPR;

(d) Part 4 makes provision restricting the application of rules contained in Articles 13 to 15 of the GDPR in specified circumstances, as allowed for by Article 23(1) of the GDPR;

(e) Part 5 makes provision containing exemptions or derogations from Chapters II, III, IV, V and VII of the GDPR for reasons relating to freedom of expression, as allowed for by Article 85(2) of the GDPR;

(f) Part 6 makes provision containing derogations from rights contained in Articles 15, 16, 18, 19, 20 and 21 of the GDPR for scientific or historical research purposes, statistical purposes and archiving purposes, as allowed for by Article 89(2) and (3) of the GDPR.

(3) Schedule 3 makes provision restricting the application of rules contained in Articles 13 to 21 of the GDPR to health, social work, education and child abuse data, as allowed for by Article 23(1) of the GDPR.

(4) Schedule 4 makes provision restricting the application of rules contained in Articles 13 to 21 of the GDPR to information the disclosure of which is prohibited or restricted by an enactment, as allowed for by Article 23(1) of the GDPR.

(5) In connection with the safeguarding of national security and with defence, see Chapter 3 of this Part and the exemption in section 26.

**16 Power to make further exemptions etc by regulations**

(1) The following powers to make provision altering the application of the GDPR may be exercised by way of regulations made by the Secretary of State under this section—

(a) the power in Article 6(3) for Member State law to lay down a legal basis containing specific provisions to adapt the application of rules of the GDPR where processing is necessary for compliance with a legal obligation, for the performance of a task in the public interest or in the exercise of official authority;

(b) the power in Article 23(1) to make a legislative measure restricting the scope of the obligations and rights mentioned in that Article where necessary and proportionate to safeguard certain objectives of general public interest;

(c) the power in Article 85(2) to provide for exemptions or derogations from certain Chapters of the GDPR where necessary to reconcile the protection of personal data with the freedom of expression and information.

(2) Regulations under this section may—

(a) amend Schedules 2 to 4—

(i) by adding or varying provisions, and

(ii) by omitting provisions added by regulations under this section, and

(b) consequentially amend section 15.

(3) Regulations under this section are subject to the affirmative resolution procedure.

**17 Accreditation of certification providers**

(1) Accreditation of a person as a certification provider is only valid when carried out by—

(a) the Commissioner, or

(b) the national accreditation body.

(2) The Commissioner may only accredit a person as a certification provider where the Commissioner—

(a) has published a statement that the Commissioner will carry out such accreditation, and

(b) has not published a notice withdrawing that statement.

(3) The national accreditation body may only accredit a person as a certification provider where the Commissioner—

(a) has published a statement that the body may carry out such accreditation, and

(b) has not published a notice withdrawing that statement.

(4) The publication of a notice under subsection (2)(b) or (3)(b) does not affect the validity of any accreditation carried out before its publication.

(5) Schedule 5 makes provision about reviews of, and appeals from, a decision relating to accreditation of a person as a certification provider.

(6) The national accreditation body may charge a reasonable fee in connection with, or incidental to, the carrying out of the body's functions under this section, Schedule 5 and Article 43 of the GDPR.

(7) The national accreditation body must provide the Secretary of State with such information relating to its functions under this section, Schedule 5 and Article 43 of the GDPR as the Secretary of State may reasonably require.

(8) In this section—

“certification provider” means a person who issues certification for the purposes of Article 42 of the GDPR;

“the national accreditation body” means the national accreditation body for the purposes of Article 4(1) of Regulation (EC) No 765/2008 of the European Parliament and of the Council of 9 July 2008 setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

**18 Transfers of personal data to third countries etc**

(1) The Secretary of State may by regulations specify, for the purposes of Article 49(1)(d) of the GDPR—

(a) circumstances in which a transfer of personal data to a third country or international organisation is to be taken to be necessary for important reasons of public interest, and

(b) circumstances in which a transfer of personal data to a third country or international organisation which is not required by an enactment is not to be taken to be necessary for important reasons of public interest.

(2) The Secretary of State may by regulations restrict the transfer of a category of personal data to a third country or international organisation where—

(a) the transfer is not authorised by an adequacy decision under Article 45(3) of the GDPR, and

(b) the Secretary of State considers the restriction to be necessary for important reasons of public interest.

(3) Regulations under this section—

(a) are subject to the made affirmative resolution procedure where the Secretary of State has made an urgency statement in respect of them;

(b) are otherwise subject to the affirmative resolution procedure.

(4) For the purposes of this section, an urgency statement is a reasoned statement that the Secretary of State considers it desirable for the regulations to come into force without delay.

**19 Processing for archiving, research and statistical purposes: safeguards**

(1) This section makes provision about—

(a) processing of personal data that is necessary for archiving purposes in the public interest,

(b) processing of personal data that is necessary for scientific or historical research purposes, and

(c) processing of personal data that is necessary for statistical purposes.

(2) Such processing does not satisfy the requirement in Article 89(1) of the GDPR for the processing to be subject to appropriate safeguards for the rights and freedoms of the data subject if it is likely to cause substantial damage or substantial distress to a data subject.

(3) Such processing does not satisfy that requirement if the processing is carried out for the purposes of measures or decisions with respect to a particular data subject, unless the purposes for which the processing is necessary include the purposes of approved medical research.

(4) In this section—

“approved medical research” means medical research carried out by a person who has approval to carry out that research from—

(a) a research ethics committee recognised or established by the Health Research Authority under Chapter 2 of Part 3 of the Care Act 2014, or

(b) a body appointed by any of the following for the purpose of assessing the ethics of research involving individuals—

(i) the Secretary of State, the Scottish Ministers, the Welsh Ministers, or a Northern Ireland department;

(ii) a relevant NHS body;

(iii) United Kingdom Research and Innovation or a body that is a Research Council for the purposes of the Science and Technology Act 1965;

(iv) an institution that is a research institution for the purposes of Chapter 4A of Part 7 of the Income Tax (Earnings and Pensions) Act 2003 (see section 457 of that Act);

“relevant NHS body” means—

(a) an NHS trust or NHS foundation trust in England,

(b) an NHS trust or Local Health Board in Wales,

(c) a Health Board or Special Health Board constituted under section 2 of the National Health Service (Scotland) Act 1978,

(d) the Common Services Agency for the Scottish Health Service, or

(e) any of the health and social care bodies in Northern Ireland falling within paragraphs (a) to (e) of section 1(5) of the Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1 (N.I.)).

(5) The Secretary of State may by regulations change the meaning of “approved medical research” for the purposes of this section, including by amending subsection (4).

(6) Regulations under subsection (5) are subject to the affirmative resolution procedure.

**20 Meaning of “court”**

Section 5(1) (terms used in this Chapter to have the same meaning as in the GDPR) does not apply to references in this Chapter to a court and, accordingly, such references do not include a tribunal.