

Delegated acts, implementing acts and final provisions



At a glance



The final chapters of the GDPR confirm that the GDPR takes effect from 25 May 2018. The intended relationship with other EU data protection instruments including Directive 2002/58/EC (the “e-Privacy Directive”) is also set out in these chapters.

The Commission will report regularly on the GDPR once it comes into effect. These final provisions also give the power to the Commission to adopt certain delegated acts under the GDPR (i.e. in respect of the use of icons and certification mechanisms).



To do list



Note that the GDPR will come into force from 25 May 2018.



Start planning what changes you will need to make to address the new requirements. See action points from other sections.



Where relevant to your business, look out for further developments in connection with the e-Privacy Directive. On 10 January 2017 the European Commission adopted a proposal for an EU Privacy Regulation to replace the EU Privacy Directive.



Degree of change

Commentary

Chapter 10 of the GDPR grants the Commission the power to adopt delegated acts (as referred to in Article 12(8) in respect of standardised icons and in Article 43(8) in respect of certification mechanisms). These powers can be revoked by the Parliament or the Council at any time. The acts adopted will enter into force within 3 months, provided neither the Parliament nor the Council objects. This period can be extended. The Commission will be assisted by a committee, in accordance with Regulation [182/2011](#). It is of particular importance that the Commission carry out appropriate consultations when carrying out its preparatory work, including at expert level (Recital 166).

Implementing powers are also conferred on the Commission in order to ensure uniform conditions for the implementation of the GDPR which should also be exercised in accordance with Regulation [182/2011](#).

Chapter 11 of the GDPR confirms that the Data Protection Directive will be repealed once the GDPR comes into effect which will be two years and twenty days following its publication in the Official Journal (25 May 2018). References in other legislation to the repealed Data Protection Directive shall be construed as references to the GDPR and references to the Article 29 Working Party shall be construed as references to the EDPB.

The Commission will report regularly on the GDPR to the Parliament and the Council, with particular focus on the data transfer provisions and the co-operation and consistency provisions. The first report shall be made no later than 4 years after the GDPR comes into force and will be submitted every 4 years thereafter. The reports will be made public.

Article 95 makes clear that the GDPR shall not impose additional obligations on providers of publicly available electronic communications services in the Union to the extent that they are subject to specific obligations under the e-Privacy Directive with the same objectives. On 10 January 2017 the European Commission adopted a proposal for an EU Privacy Regulation to replace the EU Privacy Directive.

Recital 171 clarifies that where processing is based on consent under the current Data Protection Directive, it is not necessary for the individual to give their consent again if the way the consent was given is in line with the conditions of the GDPR.



Where can I find this?

Articles 92-99, Recitals 166-173