



Standard Data Protection Clauses issued by the Information Commissioner under S128A(1) of the Data Protection Act 2004

International Data Transfer Agreements-Transitional Provisions

VERSION 1, in force 7 December 2022

Chapter V of the Gibraltar General Data Protection Regulation (**the "Gibraltar GDPR"**) (as defined in Section 2(1) of the Data Protection Act 2004 (**"DPA"**)) governs international transfers of personal data by controllers and processors (**"data exporters"**).

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

Paragraph 4 of Part 3 in Schedule 18 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 Gibraltar 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 4 of Part 3 in Schedule 18 of the DPA provide the appropriate safeguards referred to in Article 46(1) of the Gibraltar GDPR.

Under Paragraph 5 of Part 3 in Schedule 18 of the DPA, the Information Commissioner can disapply Paragraph 4, and therefore disapply the use of the Transitional Standard Clauses as appropriate safeguards under Article 46(1) of the Gibraltar GDPR.

Disapplication of Paragraph 4 of Part 3 in Schedule 18 of the Data Protection Act 2004

The Information Commissioner of Gibraltar disapplies Paragraph 4 of Part 3 in Schedule 18 of the DPA, to the extent necessary to give effect to the following:

Contracts concluded on or before 27 December 2022 on the basis of any Transitional Standard Clauses shall continue to provide appropriate safeguards for the purpose of Article 46(1) of the Gibraltar 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.
