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SCHEDULES

SCHEDULE 1

Section 4(1) and (2).

THE DATA PROTECTION PRINCIPLES

PART I

THE PRINCIPLES

1 Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—
   (a) at least one of the conditions in Schedule 2 is met, and
   (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

2 Personal data shall be obtained only for one or more specified and lawful purposes, and shall not be further processed in any manner incompatible with that purpose or those purposes.

3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

4 Personal data shall be accurate and, where necessary, kept up to date.

5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

6 Personal data shall be processed in accordance with the rights of data subjects under this Act.

7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.

8 Personal data shall not be transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.

PART II

INTERPRETATION OF THE PRINCIPLES IN PART I

The first principle

1 (1) In determining for the purposes of the first principle whether personal data are processed fairly, regard is to be had to the method by which they are obtained,

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including in particular whether any person from whom they are obtained is deceived or misled as to the purpose or purposes for which they are to be processed.

(2) Subject to paragraph 2, for the purposes of the first principle data are to be treated as obtained fairly if they consist of information obtained from a person who—

(a) is authorised by or under any enactment to supply it, or

(b) is required to supply it by or under any enactment or by any convention or other instrument imposing an international obligation on the United Kingdom.

2 (1) Subject to paragraph 3, for the purposes of the first principle personal data are not to be treated as processed fairly unless—

(a) in the case of data obtained from the data subject, the data controller ensures so far as practicable that the data subject has, is provided with, or has made readily available to him, the information specified in sub-paragraph (3), and

(b) in any other case, the data controller ensures so far as practicable that, before the relevant time or as soon as practicable after that time, the data subject has, is provided with, or has made readily available to him, the information specified in sub-paragraph (3).

(2) In sub-paragraph (1)(b) "the relevant time" means—

(a) the time when the data controller first processes the data, or

(b) in a case where at that time disclosure to a third party within a reasonable period is envisaged—

(i) if the data are in fact disclosed to such a person within that period, the time when the data are first disclosed,

(ii) if within that period the data controller becomes, or ought to become, aware that the data are unlikely to be disclosed to such a person within that period, the time when the data controller does become, or ought to become, so aware, or

(iii) in any other case, the end of that period.

(3) The information referred to in sub-paragraph (1) is as follows, namely—

(a) the identity of the data controller,

(b) if he has nominated a representative for the purposes of this Act, the identity of that representative,

(c) the purpose or purposes for which the data are intended to be processed, and

(d) any further information which is necessary, having regard to the specific circumstances in which the data are or are to be processed, to enable processing in respect of the data subject to be fair.

3 (1) Paragraph 2(1)(b) does not apply where either of the primary conditions in sub-paragraph (2), together with such further conditions as may be prescribed by the **[**[F1] Secretary of State**]** by order, are met.

(2) The primary conditions referred to in sub-paragraph (1) are—

(a) that the provision of that information would involve a disproportionate effort, or

(b) that the recording of the information to be contained in the data by, or the disclosure of the data by, the data controller is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

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Textual Amendments

F1 Words in Sch. 1 Pt. 2 para. 3 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I1 Sch. 1 Pt. II para. 3 wholly in force at 1.3.2000; Sch. 1 Pt. II para. 3 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 1 Pt. II para. 3 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

4 (1) Personal data which contain a general identifier falling within a description prescribed by the **[**[F2] Secretary of State**]** by order are not to be treated as processed fairly and lawfully unless they are processed in compliance with any conditions so prescribed in relation to general identifiers of that description.

(2) In sub-paragraph (1) "a general identifier" means any identifier (such as, for example, a number or code used for identification purposes) which—

(a) relates to an individual, and

(b) forms part of a set of similar identifiers which is of general application.

Textual Amendments

F2 Words in Sch. 1 Pt. 2 para. 4 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I2 Sch. 1 Pt. II para. 4 wholly in force at 1.3.2000; Sch. 1 Pt. II para. 4 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 1 Pt. II para. 4 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

The second principle

5 The purpose or purposes for which personal data are obtained may in particular be specified—

(a) in a notice given for the purposes of paragraph 2 by the data controller to the data subject, or

(b) in a notification given to the Commissioner under Part III of this Act.

6 In determining whether any disclosure of personal data is compatible with the purpose or purposes for which the data were obtained, regard is to be had to the purpose or purposes for which the personal data are intended to be processed by any person to whom they are disclosed.

The fourth principle

7 The fourth principle is not to be regarded as being contravened by reason of any inaccuracy in personal data which accurately record information obtained by the data controller from the data subject or a third party in a case where—

(a) having regard to the purpose or purposes for which the data were obtained and further processed, the data controller has taken reasonable steps to ensure the accuracy of the data, and

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(b) if the data subject has notified the data controller of the data subject's view that the data are inaccurate, the data indicate that fact.

The sixth principle

8 A person is to be regarded as contravening the sixth principle if, but only if—

(a) he contravenes section 7 by failing to supply information in accordance with that section,

(b) he contravenes section 10 by failing to comply with a notice given under subsection (1) of that section to the extent that the notice is justified or by failing to give a notice under subsection (3) of that section,

(c) he contravenes section 11 by failing to comply with a notice given under subsection (1) of that section, or

(d) he contravenes section 12 by failing to comply with a notice given under subsection (1) or (2)(b) of that section or by failing to give a notification under subsection (2)(a) of that section or a notice under subsection (3) of that section.

The seventh principle

9 Having regard to the state of technological development and the cost of implementing any measures, the measures must ensure a level of security appropriate to—

(a) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage as are mentioned in the seventh principle, and

(b) the nature of the data to be protected.

10 The data controller must take reasonable steps to ensure the reliability of any employees of his who have access to the personal data.

11 Where processing of personal data is carried out by a data processor on behalf of a data controller, the data controller must in order to comply with the seventh principle—

(a) choose a data processor providing sufficient guarantees in respect of the technical and organisational security measures governing the processing to be carried out, and

(b) take reasonable steps to ensure compliance with those measures.

12 Where processing of personal data is carried out by a data processor on behalf of a data controller, the data controller is not to be regarded as complying with the seventh principle unless—

(a) the processing is carried out under a contract—

(i) which is made or evidenced in writing, and

(ii) under which the data processor is to act only on instructions from the data controller, and

(b) the contract requires the data processor to comply with obligations equivalent to those imposed on a data controller by the seventh principle.

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The eighth principle

13 An adequate level of protection is one which is adequate in all the circumstances of the case, having regard in particular to—

(a) the nature of the personal data,

(b) the country or territory of origin of the information contained in the data,

(c) the country or territory of final destination of that information,

(d) the purposes for which and period during which the data are intended to be processed,

(e) the law in force in the country or territory in question,

(f) the international obligations of that country or territory,

(g) any relevant codes of conduct or other rules which are enforceable in that country or territory (whether generally or by arrangement in particular cases), and

(h) any security measures taken in respect of the data in that country or territory.

14 The eighth principle does not apply to a transfer falling within any paragraph of Schedule 4, except in such circumstances and to such extent as the **[**[F3] Secretary of State**]** may by order provide.

Textual Amendments

F3 Words in Sch. 1 Pt. 2 para. 14 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I3 Sch. 1 Pt. II para. 14 wholly in force at 1.3.2000; Sch. 1 Pt. II para. 14 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 1 Pt. II para. 14 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

15 (1) Where—

(a) in any proceedings under this Act any question arises as to whether the requirement of the eighth principle as to an adequate level of protection is met in relation to the transfer of any personal data to a country or territory outside the European Economic Area, and

(b) a Community finding has been made in relation to transfers of the kind in question,

that question is to be determined in accordance with that finding.

(2) In sub-paragraph (1) "Community finding" means a finding of the European Commission, under the procedure provided for in Article 31(2) of the Data Protection Directive, that a country or territory outside the European Economic Area does, or does not, ensure an adequate level of protection within the meaning of Article 25(2) of the Directive.

Status: *Point in time view as at 06/04/2010.*
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SCHEDULE 2

Section 4(3).

CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF ANY PERSONAL DATA

1 The data subject has given his consent to the processing.

2 The processing is necessary—

(a) for the performance of a contract to which the data subject is a party, or

(b) for the taking of steps at the request of the data subject with a view to entering into a contract.

3 The processing is necessary for compliance with any legal obligation to which the data controller is subject, other than an obligation imposed by contract.

4 The processing is necessary in order to protect the vital interests of the data subject.

5 The processing is necessary—

(a) for the administration of justice,

[[F4](aa) for the exercise of any functions of either House of Parliament,**]**

(b) for the exercise of any functions conferred on any person by or under any enactment,

(c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department, or

(d) for the exercise of any other functions of a public nature exercised in the public interest by any person.

Textual Amendments

F4 Sch. 2 para. 5(aa) inserted (1.1.2005) by 2000 c. 36, ss. 73, 87(3), Sch. 6 para. 4 (with ss. 56, 78); S.I. 2004/1909, **art. 2**; S.I. 2004/3122, **art. 2**

Modifications etc. (not altering text)

C1 Sch. 2 para. 5 extended (2.12.1999) by S.I. 1999/3145, **arts. 1**, 9(3)(b); S.I. 1999/3208, **art. 2**

6 (1) The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the 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 rights and freedoms or legitimate interests of the data subject.

(2) The **[**[F5] Secretary of State**]** may by order specify particular circumstances in which this condition is, or is not, to be taken to be satisfied.

Textual Amendments

F5 Words in Sch. 2 para. 6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I4 Sch. 2 para. 6 wholly in force at 1.3.2000; Sch. 2 para. 6 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 2 para. 6 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

Status: *Point in time view as at 06/04/2010.*
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SCHEDULE 3

Section 4(3).

CONDITIONS RELEVANT FOR PURPOSES OF THE FIRST PRINCIPLE: PROCESSING OF SENSITIVE PERSONAL DATA

1 The data subject has given his explicit consent to the processing of the personal data.

2 (1) The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.

(2) The **[**[F6] Secretary of State**]** may by order—

(a) exclude the application of sub-paragraph (1) in such cases as may be specified, or

(b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.

Textual Amendments

F6 Words in Sch. 3 para. 2 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I5 Sch. 3 para. 2 wholly in force at 1.3.2000; Sch. 3 para. 2 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 3 para. 2 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

3 The processing is necessary—

(a) in order to protect the vital interests of the data subject or another person, in a case where—

(i) consent cannot be given by or on behalf of the data subject, or

(ii) the data controller cannot reasonably be expected to obtain the consent of the data subject, or

(b) in order to protect the vital interests of another person, in a case where consent by or on behalf of the data subject has been unreasonably withheld.

4 The processing—

(a) is carried out in the course of its legitimate activities by any body or association which—

(i) is not established or conducted for profit, and

(ii) exists for political, philosophical, religious or trade-union purposes,

(b) is carried out with appropriate safeguards for the rights and freedoms of data subjects,

(c) relates only to individuals who either are members of the body or association or have regular contact with it in connection with its purposes, and

(d) does not involve disclosure of the personal data to a third party without the consent of the data subject.

5 The information contained in the personal data has been made public as a result of steps deliberately taken by the data subject.

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6 The processing—

(a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),

(b) is necessary for the purpose of obtaining legal advice, or

(c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

7 (1) The processing is necessary—

(a) for the administration of justice,

[[F7](aa) for the exercise of any functions of either House of Parliament,**]**

(b) for the exercise of any functions conferred on any person by or under an enactment, or

(c) for the exercise of any functions of the Crown, a Minister of the Crown or a government department.

(2) The **[**[F8] Secretary of State**]** may by order—

(a) exclude the application of sub-paragraph (1) in such cases as may be specified, or

(b) provide that, in such cases as may be specified, the condition in sub-paragraph (1) is not to be regarded as satisfied unless such further conditions as may be specified in the order are also satisfied.

Textual Amendments

F7 Sch. 3 para. 7(1)(aa) inserted (1.1.2005) by 2000 c. 36, ss. 73, 87(3), Sch. 6 para. 4 (with ss. 56, 78); S.I. 2004/1909, **art. 2**; S.I. 2004/3122, **art. 2**

F8 Words in Sch. 3 para. 7 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Modifications etc. (not altering text)

C2 Sch. 3 para. 7 extended (2.12.1999) by S.I. 1999/3145, **arts. 1**, 9(3)(b); S.I. 1999/3208, **art. 2**

Commencement Information

I6 Sch. 3 para. 7 wholly in force at 1.3.2000; Sch. 3 para. 7 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 3 para. 7 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

[[F9]7A (1) The processing—

(a) is either—

(i) the disclosure of sensitive personal data by a person as a member of an anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation; or

(ii) any other processing by that person or another person of sensitive personal data so disclosed; and

(b) is necessary for the purposes of preventing fraud or a particular kind of fraud.

(2) In this paragraph "an anti-fraud organisation" means any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes.**]**

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Textual Amendments

F9 Sch. 3 para. 7A inserted (1.10.2008) by Serious Crime Act 2007 (c. 27), **ss. 72**, 94; S.I. 2008/2504, **art. 2(e)**

8 (1) The processing is necessary for medical purposes and is undertaken by—

(a) a health professional, or

(b) a person who in the circumstances owes a duty of confidentiality which is equivalent to that which would arise if that person were a health professional.

(2) In this paragraph "medical purposes" includes the purposes of preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of healthcare services.

9 (1) The processing—

(a) is of sensitive personal data consisting of information as to racial or ethnic origin,

(b) is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment between persons of different racial or ethnic origins, with a view to enabling such equality to be promoted or maintained, and

(c) is carried out with appropriate safeguards for the rights and freedoms of data subjects.

(2) The **[**[F10] Secretary of State**]** may by order specify circumstances in which processing falling within sub-paragraph (1)(a) and (b) is, or is not, to be taken for the purposes of sub-paragraph (1)(c) to be carried out with appropriate safeguards for the rights and freedoms of data subjects.

Textual Amendments

F10 Words in Sch. 3 para. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I7 Sch. 3 para. 9 wholly in force at 1.3.2000; Sch. 3 para. 9 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 3 para. 9 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

10 The personal data are processed in circumstances specified in an order made by the **[**[F11] Secretary of State**]** for the purposes of this paragraph.

Textual Amendments

F11 Words in Sch. 3 para. 10 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Commencement Information

I8 Sch. 3 para. 10 wholly in force at 1.3.2000; Sch. 3 para. 10 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 3 para. 10 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

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SCHEDULE 4

Section 4(3).

CASES WHERE THE EIGHTH PRINCIPLE DOES NOT APPLY

1 The data subject has given his consent to the transfer.

2 The transfer is necessary—

(a) for the performance of a contract between the data subject and the data controller, or

(b) for the taking of steps at the request of the data subject with a view to his entering into a contract with the data controller.

3 The transfer is necessary—

(a) for the conclusion of a contract between the data controller and a person other than the data subject which—

(i) is entered into at the request of the data subject, or

(ii) is in the interests of the data subject, or

(b) for the performance of such a contract.

4 (1) The transfer is necessary for reasons of substantial public interest.

(2) The **[**[F12] Secretary of State**]** may by order specify—

(a) circumstances in which a transfer is to be taken for the purposes of sub-paragraph (1) to be necessary for reasons of substantial public interest, and

(b) circumstances in which a transfer which is not required by or under an enactment is not to be taken for the purpose of sub-paragraph (1) to be necessary for reasons of substantial public interest.

Textual Amendments

F12 Words in Sch. 4 para. 4 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(b)**

Modifications etc. (not altering text)

C3 Sch. 4 para. 4(1) modified (11.12.2000) by 1999 c. 33, **s. 13(4)**; S.I. 2000/3099, art. 3, **Sch.**

Commencement Information

I9 Sch. 4 para. 4 wholly in force at 1.3.2000; Sch. 4 para. 4 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 4 para. 4 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

5 The transfer—

(a) is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings),

(b) is necessary for the purpose of obtaining legal advice, or

(c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights.

6 The transfer is necessary in order to protect the vital interests of the data subject.

7 The transfer is of part of the personal data on a public register and any conditions subject to which the register is open to inspection are complied with by any person to whom the data are or may be disclosed after the transfer.

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8 The transfer is made on terms which are of a kind approved by the Commissioner as ensuring adequate safeguards for the rights and freedoms of data subjects.

9 The transfer has been authorised by the Commissioner as being made in such a manner as to ensure adequate safeguards for the rights and freedoms of data subjects.

SCHEDULE 5

Section 6(7).

THE DATA PROTECTION COMMISSIONER [F13]. . .

Textual Amendments

F13 Sch. 5: words in heading omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 30(a)**

PART I

THE COMMISSIONER

Status and capacity

1 (1) The corporation sole by the name of the Data Protection Registrar established by the [M1]Data Protection Act 1984 shall continue in existence by the name of the **[**[F14]Information Commissioner**]**.

(2) The Commissioner and his officers and staff are not to be regarded as servants or agents of the Crown.

Textual Amendments

F14 Words in Sch. 5 para. 1(2) substituted (30.1.2001) by 2000 c. 36, ss. 18(4), 87(2)(c), **Sch. 2 Pt. I para. 15(2)** (with ss. 7(1)(7), 56, 78)

Marginal Citations

M1 1984 c. 35.

Tenure of office

2 (1) Subject to the provisions of this paragraph, the Commissioner shall hold office for such term not exceeding five years as may be determined at the time of his appointment.

(2) The Commissioner may be relieved of his office by Her Majesty at his own request.

(3) The Commissioner may be removed from office by Her Majesty in pursuance of an Address from both Houses of Parliament.

(4) The Commissioner shall in any case vacate his office—

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(a) on completing the year of service in which he attains the age of sixty-five years, or

(b) if earlier, on completing his fifteenth year of service.

(5) Subject to sub-paragraph (4), a person who ceases to be Commissioner on the expiration of his term of office shall be eligible for re-appointment, but a person may not be re-appointed for a third or subsequent term as Commissioner unless, by reason of special circumstances, the person's re-appointment for such a term is desirable in the public interest.

Modifications etc. (not altering text)

C4 Sch. 5 para. 2(4)(b) restricted (14.5.2001) by 2000 c. 36, **s. 18(7)**, (with ss. 7(1)(7), 56, 78); S.I. 2001/1637, **art. 2(a)**

Salary etc.

3 (1) There shall be paid—

(a) to the Commissioner such salary, and

(b) to or in respect of the Commissioner such pension,

as may be specified by a resolution of the House of Commons.

(2) A resolution for the purposes of this paragraph may—

(a) specify the salary or pension,

(b) provide that the salary or pension is to be the same as, or calculated on the same basis as, that payable to, or to or in respect of, a person employed in a specified office under, or in a specified capacity in the service of, the Crown, or

(c) specify the salary or pension and provide for it to be increased by reference to such variables as may be specified in the resolution.

(3) A resolution for the purposes of this paragraph may take effect from the date on which it is passed or from any earlier or later date specified in the resolution.

(4) A resolution for the purposes of this paragraph may make different provision in relation to the pension payable to or in respect of different holders of the office of Commissioner.

(5) Any salary or pension payable under this paragraph shall be charged on and issued out of the Consolidated Fund.

(6) In this paragraph "pension" includes an allowance or gratuity and any reference to the payment of a pension includes a reference to the making of payments towards the provision of a pension.

Officers and staff

4 (1) The Commissioner—

(a) shall appoint a deputy commissioner **[**[F15]or two deputy commissioners**]**, and

(b) may appoint such number of other officers and staff as he may determine.

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

[[F16](1A) The Commissioner shall, when appointing any second deputy commissioner, specify which of the Commissioner's functions are to be performed, in the circumstances referred to in paragraph 5(1), by each of the deputy commissioners.**]**

(2) The remuneration and other conditions of service of the persons appointed under this paragraph shall be determined by the Commissioner.

(3) The Commissioner may pay such pensions, allowances or gratuities to or in respect of the persons appointed under this paragraph, or make such payments towards the provision of such pensions, allowances or gratuities, as he may determine.

(4) The references in sub-paragraph (3) to pensions, allowances or gratuities to or in respect of the persons appointed under this paragraph include references to pensions, allowances or gratuities by way of compensation to or in respect of any of those persons who suffer loss of office or employment.

(5) Any determination under sub-paragraph (1)(b), (2) or (3) shall require the approval of the **[**[F17] Secretary of State**]** .

(6) The [M2]Employers' Liability (Compulsory Insurance) Act 1969 shall not require insurance to be effected by the Commissioner.

Textual Amendments

F15 Words in Sch. 5 para. 4(1)(a) inserted (30.11.2000) by 2000 c. 36, ss. 18(4), 87(1)(i), **Sch. 2 Pt. II para. 20(2)** (with ss. 7(1)(7), 56, 78)

F16 Sch. 5 para. 4(1A) inserted (30.11.2000) by 2000 c. 36, ss. 18(4), 87(1)(i), **Sch. 2 Pt. II para. 20(3)** (with s. 7(1)(7), 56, 78)

F17 Words in Sch. 5 para. 4 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(c)**

Marginal Citations

M2 1969 c. 57.

5 (1) The deputy commissioner **[**[F18]or deputy commissioners**]** shall perform the functions conferred by this Act **[**[F19]or the Freedom of Information Act 2000**]** on the Commissioner during any vacancy in that office or at any time when the Commissioner is for any reason unable to act.

(2) Without prejudice to sub-paragraph (1), any functions of the Commissioner under this Act **[**[F20]or the Freedom of Information Act 2000**]** may, to the extent authorised by him, be performed by any of his officers or staff.

Textual Amendments

F18 Words in Sch. 5 para. 5(1) inserted (30.11.2000) by 2000 c. 36, ss. 18(4), 87(1)(i), **Sch. 2 Pt. II para. 21(2)(a)** (with ss. 7(1)(7), 56, 78)

F19 Words in Sch. 5 para. 5(1) inserted (30.11.2000) by 2000 c. 36, ss. 18(4), 87(1)(i), **Sch. 2 Pt. II para. 21(2)(b)** (with ss. 7(1)(7), 56, 78)

F20 Words in Sch. 5 para. 5(2) inserted (30.11.2000) by 2000 c. 36, ss. 18(4), 87(1)(i), **Sch. 2 Pt. II para. 21(3)** (with ss. 7(1)(7), 56, 78)

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Authentication of seal of the Commissioner

6 The application of the seal of the Commissioner shall be authenticated by his signature or by the signature of some other person authorised for the purpose.

Presumption of authenticity of documents issued by the Commissioner

7 Any document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or to be signed by or on behalf of the Commissioner shall be received in evidence and shall be deemed to be such an instrument unless the contrary is shown.

Money

8 The **[**[F21] Secretary of State**]** may make payments to the Commissioner out of money provided by Parliament.

Textual Amendments

F21 Words in Sch. 5 para. 8 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(c)**

9 (1) All fees and other sums received by the Commissioner in the exercise of his functions under this Act **[**[F22], under section 159 of the Consumer Credit Act 1974 or under the Freedom of Information Act 2000**]** shall be paid by him to the **[**[F23] Secretary of State**]** .

(2) Sub-paragraph (1) shall not apply where the **[**[F23] Secretary of State**]** , with the consent of the Treasury, otherwise directs.

(3) Any sums received by the **[**[F23] Secretary of State**]** under sub-paragraph (1) shall be paid into the Consolidated Fund.

Textual Amendments

F22 Words in Sch. 5 para. 9(1) substituted (30.11.2000) by 2000 c. 36, ss. 18(4), 87(1)(i), **Sch. 2 Pt. II para. 22** (with ss. 7(1)(7), 56, 78)

F23 Words in Sch. 5 para. 9 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(c)**

Accounts

10 (1) It shall be the duty of the Commissioner—

(a) to keep proper accounts and other records in relation to the accounts,

(b) to prepare in respect of each financial year a statement of account in such form as the **[**[F24] Secretary of State**]** may direct, and

(c) to send copies of that statement to the Comptroller and Auditor General on or before 31st August next following the end of the year to which the statement relates or on or before such earlier date after the end of that year as the Treasury may direct.

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) The Comptroller and Auditor General shall examine and certify any statement sent to him under this paragraph and lay copies of it together with his report thereon before each House of Parliament.

(3) In this paragraph "financial year" means a period of twelve months beginning with 1st April.

Textual Amendments

F24 Words in Sch. 5 para. 10 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(c)**

Application of Part I in Scotland

11 Paragraphs 1(1), 6 and 7 do not extend to Scotland.

[F25F25]PART II

THE TRIBUNAL

. . . . . .

Textual Amendments

F25 Sch. 5 Pt. 2 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 30(b)**

[[F30]PART III]

. . . . . .

Textual Amendments

F30 Sch. 5 Pt. III (ss. 16-17) repealed (30.1.2001) by 2000 c. 36, ss. 86, 87(3), **Sch. 8 Pt. II** (with ss. 56, 78)

SCHEDULE 6

Sections 28(12), 48(5).

APPEAL PROCEEDINGS

Modifications etc. (not altering text)

C5 Sch. 6 applied (with modifications) (1.3.2000) by S.I. 1999/2093, **reg. 32(8)(a)**
Sch. 6 applied (30.11.2002) by 2000 c. 36, ss. 61(2), 87(3) (with ss. 7(1)(7), 56, 78); S.I. 2002/2812, **art. 2**
Sch. 6 applied (with modifications) (11.12.2003) by The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426), **reg. 28(8)(b)** (with regs. 4, 15(3), 28, 29)

C6 Sch. 6 extended (with modifications) (11.12.2003) by the Privacy and Electronic Communications (EC Directive) Regulations (S.I. 2003/2426), {reg. 31}, Sch. 1 (with regs. 4, 15(3), 28, 29) (Sch. 1 amended

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(26.5.2011) by The Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011 (S.I. 2011/1208), reg. {14})

C7 Sch. 6 applied (6.4.2010) by The Data Protection (Monetary Penalties) Order 2010 (S.I. 2010/910), **art. 7**

C8 Sch. 6 applied (with modifications) (26.5.2011) by The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426), reg. 31B, **Sch. 1** (reg. 31B being inserted and Sch. 1 amended (26.5.2011) by The Privacy and Electronic Communications (EC Directive) (Amendment) Regulations 2011 (S.I. 2011/1208), regs. {12}{14})

Hearing of appeals

1 **F31** . . . . . .

Textual Amendments

F31 Sch. 6 paras. 1-6 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(a)**

Constitution of Tribunal in national security cases

2 **F32** . . . . . .

Textual Amendments

F32 Sch. 6 paras. 1-6 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(a)**

3 **F33** . . . . . .

Textual Amendments

F33 Sch. 6 paras. 1-6 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(a)**

Constitution of Tribunal in other cases

4 **F34** . . . . . .

Textual Amendments

F34 Sch. 6 paras. 1-6 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(a)**

Determination of questions by full Tribunal

5 **F35** . . . . . .

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F35 Sch. 6 paras. 1-6 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(a)**

Ex parte proceedings

6 [F36] . . . . . .

Textual Amendments

F36 Sch. 6 paras. 1-6 omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(a)**

[[F37]Tribunal Procedure Rules]

Textual Amendments

F37 Sch. 6 para. 7: heading substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(b)(i)**

7 **[**[F38](1) Tribunal Procedure Rules may make provision for regulating the exercise of the rights of appeal conferred—

(a) by sections 28(4) and (6) and 48 of this Act, and

(b) by sections 47(1) and (2) and 60(1) and (4) of the Freedom of Information Act 2000.

(2) In the case of appeals under this Act and the Freedom of Information Act 2000, Tribunal Procedure Rules may make provision—

(a) for securing the production of material used for the processing of personal data;

(b) for the inspection, examination, operation and testing of any equipment or material used in connection with the processing of personal data;

(c) for hearing an appeal in the absence of the appellant or for determining an appeal without a hearing.**]**

(3) [F39] . . . . . .

Textual Amendments

F38 Sch. 6 para. 7(1)(2) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(b)(ii)**

F39 Sch. 6 para. 7(3) omitted (18.1.2010) by virtue of The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), arts. 1(1), 5(1), **Sch. 2 para. 31(b)(iii)**

Commencement Information

I10 Sch. 6 para. 7 wholly in force at 1.3.2000; Sch. 6 para. 7 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 6 para. 7 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Obstruction etc.

8 (1) If any person is guilty of any act or omission in relation to proceedings before the Tribunal which, if those proceedings were proceedings before a court having power to commit for contempt, would constitute contempt of court, the Tribunal may certify the offence to the High Court or, in Scotland, the Court of Session.

(2) Where an offence is so certified, the court may inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which it could deal with him if he had committed the like offence in relation to the court.

SCHEDULE 7

Section 37.

MISCELLANEOUS EXEMPTIONS

Confidential references given by the data controller

1 Personal data are exempt from section 7 if they consist of a reference given or to be given in confidence by the data controller for the purposes of—

(a) the education, training or employment, or prospective education, training or employment, of the data subject,

(b) the appointment, or prospective appointment, of the data subject to any office, or

(c) the provision, or prospective provision, by the data subject of any service.

Armed forces

2 Personal data are exempt from the subject information provisions in any case to the extent to which the application of those provisions would be likely to prejudice the combat effectiveness of any of the armed forces of the Crown.

Judicial appointments and honours

3 Personal data processed for the purposes of—

(a) assessing any person's suitability for judicial office or the office of Queen's Counsel, or

(b) the conferring by the Crown of any honour **[**[F40]or dignity**]**,

are exempt from the subject information provisions.

Textual Amendments

F40 Words in Sch. 7 para. 3(b) inserted (14.5.2001) by 2000 c. 36, s. 73, **Sch. 6 para. 6** (with ss. 56, 78); S.I. 2001/1637, **art. 2(d)**

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Crown employment and Crown or Ministerial appointments

[F41]4 (1) The **[**[F42] Secretary of State**]** may by order exempt from the subject information provisions personal data processed for the purposes of assessing any person's suitability for—

(a) employment by or under the Crown, or

(b) any office to which appointments are made by Her Majesty, by a Minister of the Crown or by a **[**[F43]Northern Ireland authority**]**.

[[F44](2) In this paragraph "Northern Ireland authority" means the First Minister, the deputy First Minister, a Northern Ireland Minister or a Northern Ireland department.**]**

Textual Amendments

F41 Sch. 7 para. 4 renumbered as Sch. 7 para. 4(1) (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 21(1)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

F42 Words in Sch. 7 para. 4 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 (S.I. 2003/1887), art. 9, **Sch. 2 para. 9(1)(e)**

F43 Words in Sch. 7 para. 4 substituted (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 21(1)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

F44 Sch. 7 para. 4(2) inserted (as renumbered) (2.12.1999) by 1998 c. 47, s. 99, **Sch. 13 para. 21(2)** (with s. 95); S.I. 1999/3209, art. 2, **Sch.**

Modifications etc. (not altering text)

C9 Sch. 7 para. 4 extended (2.12.1999) by S.I. 1999/3145, **arts. 1**, 9(3)(d); S.I. 1999/3208, **art. 2**

Commencement Information

I11 Sch. 7 para. 4 wholly in force at 1.3.2000; Sch. 7 para. 4 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 7 para. 4 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

Management forecasts etc.

5 Personal data processed for the purposes of management forecasting or management planning to assist the data controller in the conduct of any business or other activity are exempt from the subject information provisions in any case to the extent to which the application of those provisions would be likely to prejudice the conduct of that business or other activity.

Corporate finance

6 (1) Where personal data are processed for the purposes of, or in connection with, a corporate finance service provided by a relevant person—

(a) the data are exempt from the subject information provisions in any case to the extent to which either—

(i) the application of those provisions to the data could affect the price of any instrument which is already in existence or is to be or may be created, or

(ii) the data controller reasonably believes that the application of those provisions to the data could affect the price of any such instrument, and

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) to the extent that the data are not exempt from the subject information provisions by virtue of paragraph (a), they are exempt from those provisions if the exemption is required for the purpose of safeguarding an important economic or financial interest of the United Kingdom.

(2) For the purposes of sub-paragraph (1)(b) the **[**[F45] Secretary of State**]** may by order specify—

(a) matters to be taken into account in determining whether exemption from the subject information provisions is required for the purpose of safeguarding an important economic or financial interest of the United Kingdom, or

(b) circumstances in which exemption from those provisions is, or is not, to be taken to be required for that purpose.

(3) In this paragraph—

"corporate finance service" means a service consisting in—

(a) underwriting in respect of issues of, or the placing of issues of, any instrument,

(b) advice to undertakings on capital structure, industrial strategy and related matters and advice and service relating to mergers and the purchase of undertakings, or

(c) services relating to such underwriting as is mentioned in paragraph (a);

"instrument" means any instrument listed in **[**[F46]section C of Annex I to Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments**]**[F47]. . . ;

"price" includes value;

"relevant person" means—

(a) **[**[F48]any person who, by reason of any permission he has under Part IV of the Financial Services and Markets Act 2000, is ableto carry on a corporate finance service without contravening the general prohibition, within the meaning of section 19 of that Act;

(b) an EEA firm of the kind mentioned in paragraph 5(a) or (b) of Schedule 3 to that Act which hasqualified for authorisation under paragraph 12 of that Schedule, and may lawfully carry on a corporate finance service;

(c) any person who is exempt from the general prohibition in respect of any corporate finance service—

(i) as a result of an exemption order made under section 38(1) of that Act, or

(ii) by reason of section 39(1) of that Act (appointed representatives);

(cc) any person, not falling within paragraph (a), (b) or (c) who may lawfully carry on acorporate finance service without contravening the general prohibition;**]**

(d) any person who, in the course of his employment, provides to his employer a service falling within paragraph (b) or (c) of the definition of "corporate finance service", or

(e) any partner who provides to other partners in the partnership a service falling within either of those paragraphs.

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F45 Words in Sch. 7 para. 6 substituted (19.8.2003) by The Secretary of State for Constitutional Affairs Order 2003 S.I. 2003/1887), art. 9, {Sch. 2 para. 9(1)(e)}

F46 Words in Sch. 7 para. 6(3) substituted (1.4.2007 for certain purposes, 1.11.2007 in so far as not already in force) by The Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), art. 3(6), **Sch. 6 para. 12**

F47 Sch. 7 para. 6(3): words in definition of "instrument" omitted (3.7.2002) by virtue of The Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002 (S.I. 2002/1555), **art. 25(2)**

F48 Sch. 7 para. 6(3): in definition of "relevant person" paragraphs (a)-(cc) substituted (3.7.2002) for (a)-(c) by The Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002 (S.I. 2002/1555), **art. 25(3)**

Commencement Information

I12 Sch. 7 para. 6 wholly in force at 1.3.2000; Sch. 7 para. 6 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 7 para. 6 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

Negotiations

7 Personal data which consist of records of the intentions of the data controller in relation to any negotiations with the data subject are exempt from the subject information provisions in any case to the extent to which the application of those provisions would be likely to prejudice those negotiations.

Examination marks

8 (1) Section 7 shall have effect subject to the provisions of sub-paragraphs (2) to (4) in the case of personal data consisting of marks or other information processed by a data controller—

(a) for the purpose of determining the results of an academic, professional or other examination or of enabling the results of any such examination to be determined, or

(b) in consequence of the determination of any such results.

(2) Where the relevant day falls before the day on which the results of the examination are announced, the period mentioned in section 7(8) shall be extended until—

(a) the end of five months beginning with the relevant day, or

(b) the end of forty days beginning with the date of the announcement,

whichever is the earlier.

(3) Where by virtue of sub-paragraph (2) a period longer than the prescribed period elapses after the relevant day before the request is complied with, the information to be supplied pursuant to the request shall be supplied both by reference to the data in question at the time when the request is received and (if different) by reference to the data as from time to time held in the period beginning when the request is received and ending when it is complied with.

(4) For the purposes of this paragraph the results of an examination shall be treated as announced when they are first published or (if not published) when they are first made available or communicated to the candidate in question.

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) In this paragraph— "examination" includes any process for determining the knowledge, intelligence, skill or ability of a candidate by reference to his performance in any test, work or other activity; "the prescribed period" means forty days or such other period as is for the time being prescribed under section 7 in relation to the personal data in question; "relevant day" has the same meaning as in section 7.

Examination scripts etc.

9 (1) Personal data consisting of information recorded by candidates during an academic, professional or other examination are exempt from section 7.

(2) In this paragraph "examination" has the same meaning as in paragraph 8.

Legal professional privilege

10 Personal data are exempt from the subject information provisions if the data consist of information in respect of which a claim to legal professional privilege **[**[F49]or, in Scotland, to confidentiality of communications**]** could be maintained in legal proceedings.

Textual Amendments

F49 Words in Sch. 7 para. 10 substituted (14.5.2001) by 2000 c. 36, s. 73, **Sch. 6 para. 7** (with ss. 56, 78); S.I. 2001/1637, **art. 2(d)**

Self-incrimination

11 (1) A person need not comply with any request or order under section 7 to the extent that compliance would, by revealing evidence of the commission of any offence **[**[F50], other than an offence under this Act or an offence within sub-paragraph (1A),**]** expose him to proceedings for that offence.

[[F51](1A) The offences mentioned in sub-paragraph (1) are—

(a) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath),

(b) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath), or

(c) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).**]**

(2) Information disclosed by any person in compliance with any request or order under section 7 shall not be admissible against him in proceedings for an offence under this Act.

Textual Amendments

F50 Words in Sch. 7 para. 11(1) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 12(2)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

F51 Sch. 7 para. 11(1A) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 12(3)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE 8

Section 39.

TRANSITIONAL RELIEF

PART I

INTERPRETATION OF SCHEDULE

1 (1) For the purposes of this Schedule, personal data are "eligible data" at any time if, and to the extent that, they are at that time subject to processing which was already under way immediately before 24th October 1998.

(2) In this Schedule— "eligible automated data" means eligible data which fall within paragraph (a) or (b) of the definition of "data" in section 1(1); "eligible manual data" means eligible data which are not eligible automated data; "the first transitional period" means the period beginning with the commencement of this Schedule and ending with 23rd October 2001; "the second transitional period" means the period beginning with 24th October 2001 and ending with 23rd October 2007.

PART II

EXEMPTIONS AVAILABLE BEFORE 24TH OCTOBER 2001

Manual data

2 (1) Eligible manual data, other than data forming part of an accessible record, are exempt from the data protection principles and Parts II and III of this Act during the first transitional period.

(2) This paragraph does not apply to eligible manual data to which paragraph 4 applies.

3 (1) This paragraph applies to—

(a) eligible manual data forming part of an accessible record, and

(b) personal data which fall within paragraph (d) of the definition of "data" in section 1(1) but which, because they are not subject to processing which was already under way immediately before 24th October 1998, are not eligible data for the purposes of this Schedule.

(2) During the first transitional period, data to which this paragraph applies are exempt from—

(a) the data protection principles, except the sixth principle so far as relating to sections 7 and 12A,

(b) Part II of this Act, except—

(i) section 7 (as it has effect subject to section 8) and section 12A, and

(ii) section 15 so far as relating to those sections, and

(c) Part III of this Act.

4 (1) This paragraph applies to eligible manual data which consist of information relevant to the financial standing of the data subject and in respect of which the data controller is a credit reference agency.

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) During the first transitional period, data to which this paragraph applies are exempt from—

(a) the data protection principles, except the sixth principle so far as relating to sections 7 and 12A,

(b) Part II of this Act, except—

(i) section 7 (as it has effect subject to sections 8 and 9) and section 12A, and

(ii) section 15 so far as relating to those sections, and

(c) Part III of this Act.

Processing otherwise than by reference to the data subject

5 During the first transitional period, for the purposes of this Act (apart from paragraph 1), eligible automated data are not to be regarded as being "processed" unless the processing is by reference to the data subject.

Payrolls and accounts

6 (1) Subject to sub-paragraph (2), eligible automated data processed by a data controller for one or more of the following purposes—

(a) calculating amounts payable by way of remuneration or pensions in respect of service in any employment or office or making payments of, or of sums deducted from, such remuneration or pensions, or

(b) keeping accounts relating to any business or other activity carried on by the data controller or keeping records of purchases, sales or other transactions for the purpose of ensuring that the requisite payments are made by or to him in respect of those transactions or for the purpose of making financial or management forecasts to assist him in the conduct of any such business or activity,

are exempt from the data protection principles and Parts II and III of this Act during the first transitional period.

(2) It shall be a condition of the exemption of any eligible automated data under this paragraph that the data are not processed for any other purpose, but the exemption is not lost by any processing of the eligible data for any other purpose if the data controller shows that he had taken such care to prevent it as in all the circumstances was reasonably required.

(3) Data processed only for one or more of the purposes mentioned in sub-paragraph (1)(a) may be disclosed—

(a) to any person, other than the data controller, by whom the remuneration or pensions in question are payable,

(b) for the purpose of obtaining actuarial advice,

(c) for the purpose of giving information as to the persons in any employment or office for use in medical research into the health of, or injuries suffered by, persons engaged in particular occupations or working in particular places or areas,

(d) if the data subject (or a person acting on his behalf) has requested or consented to the disclosure of the data either generally or in the circumstances in which the disclosure in question is made, or

Status: *Point in time view as at 06/04/2010.*
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(e) if the person making the disclosure has reasonable grounds for believing that the disclosure falls within paragraph (d).

(4) Data processed for any of the purposes mentioned in sub-paragraph (1) may be disclosed—

(a) for the purpose of audit or where the disclosure is for the purpose only of giving information about the data controller's financial affairs, or

(b) in any case in which disclosure would be permitted by any other provision of this Part of this Act if sub-paragraph (2) were included among the non-disclosure provisions.

(5) In this paragraph "remuneration" includes remuneration in kind and "pensions" includes gratuities or similar benefits.

Unincorporated members' clubs and mailing lists

7 Eligible automated data processed by an unincorporated members' club and relating only to the members of the club are exempt from the data protection principles and Parts II and III of this Act during the first transitional period.

8 Eligible automated data processed by a data controller only for the purposes of distributing, or recording the distribution of, articles or information to the data subjects and consisting only of their names, addresses or other particulars necessary for effecting the distribution, are exempt from the data protection principles and Parts II and III of this Act during the first transitional period.

9 Neither paragraph 7 nor paragraph 8 applies to personal data relating to any data subject unless he has been asked by the club or data controller whether he objects to the data relating to him being processed as mentioned in that paragraph and has not objected.

10 It shall be a condition of the exemption of any data under paragraph 7 that the data are not disclosed except as permitted by paragraph 11 and of the exemption under paragraph 8 that the data are not processed for any purpose other than that mentioned in that paragraph or as permitted by paragraph 11, but—

(a) the exemption under paragraph 7 shall not be lost by any disclosure in breach of that condition, and

(b) the exemption under paragraph 8 shall not be lost by any processing in breach of that condition,

if the data controller shows that he had taken such care to prevent it as in all the circumstances was reasonably required.

11 Data to which paragraph 10 applies may be disclosed—

(a) if the data subject (or a person acting on his behalf) has requested or consented to the disclosure of the data either generally or in the circumstances in which the disclosure in question is made,

(b) if the person making the disclosure has reasonable grounds for believing that the disclosure falls within paragraph (a), or

(c) in any case in which disclosure would be permitted by any other provision of this Part of this Act if paragraph 8 were included among the non-disclosure provisions.

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Back-up data

12 Eligible automated data which are processed only for the purpose of replacing other data in the event of the latter being lost, destroyed or impaired are exempt from section 7 during the first transitional period.

Exemption of all eligible automated data from certain requirements

13 (1) During the first transitional period, eligible automated data are exempt from the following provisions—

(a) the first data protection principle to the extent to which it requires compliance with—

(i) paragraph 2 of Part II of Schedule 1,

(ii) the conditions in Schedule 2, and

(iii) the conditions in Schedule 3,

(b) the seventh data protection principle to the extent to which it requires compliance with paragraph 12 of Part II of Schedule 1;

(c) the eighth data protection principle,

(d) in section 7(1), paragraphs (b), (c)(ii) and (d),

(e) sections 10 and 11,

(f) section 12, and

(g) section 13, except so far as relating to—

(i) any contravention of the fourth data protection principle,

(ii) any disclosure without the consent of the data controller,

(iii) loss or destruction of data without the consent of the data controller, or

(iv) processing for the special purposes.

(2) The specific exemptions conferred by sub-paragraph (1)(a), (c) and (e) do not limit the data controller's general duty under the first data protection principle to ensure that processing is fair.

PART III

EXEMPTIONS AVAILABLE AFTER 23RD OCTOBER 2001 BUT BEFORE 24TH OCTOBER 2007

Modifications etc. (not altering text)

C10 Sch. 8 Pt. III excluded (1.1.2005) by 2000 c. 36, ss. 40(6), 87(3) (with ss. 7(1)(7), 56, 78); S.I. 2004/3122, **art. 2**

Sch. 8 Pt. III excluded (S.) (1.1.2005) by The Environmental Information (Scotland) Regulations 2004 (S.S.I. 2004/520), **reg. 11(5)** (with reg. 3)

14 (1) This paragraph applies to—

(a) eligible manual data which were held immediately before 24th October 1998, and

(b) personal data which fall within paragraph (d) of the definition of "data" in section 1(1) but do not fall within paragraph (a) of this sub-paragraph,

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but does not apply to eligible manual data to which the exemption in paragraph 16 applies.

(2) During the second transitional period, data to which this paragraph applies are exempt from the following provisions—

(a) the first data protection principle except to the extent to which it requires compliance with paragraph 2 of Part II of Schedule 1,

(b) the second, third, fourth and fifth data protection principles, and

(c) section 14(1) to (3).

[F52 14A (1) This paragraph applies to personal data which fall within paragraph (e) of the definition of "data" in section 1(1) and do not fall within paragraph 14(1)(a), but does not apply to eligible manual data to which the exemption in paragraph 16 applies.

(2) During the second transitional period, data to which this paragraph applies are exempt from—

(a) the fourth data protection principle, and

(b) section 14(1) to (3).]

Textual Amendments

F52 Sch. 8 Pt. III para. 14A inserted (1.1.2005) by 2000 c. 36, ss. 70(3), 87(3) (with ss. 56, 78); S.I. 2004/1909, **art. 2**; S.I. 2004/3122, **art. 2**

PART IV

EXEMPTIONS AFTER 23RD OCTOBER 2001 FOR HISTORICAL RESEARCH

15 In this Part of this Schedule "the relevant conditions" has the same meaning as in section 33.

16 (1) Eligible manual data which are processed only for the purpose of historical research in compliance with the relevant conditions are exempt from the provisions specified in sub-paragraph (2) after 23rd October 2001.

(2) The provisions referred to in sub-paragraph (1) are—

(a) the first data protection principle except in so far as it requires compliance with paragraph 2 of Part II of Schedule 1,

(b) the second, third, fourth and fifth data protection principles, and

(c) section 14(1) to (3).

17 (1) After 23rd October 2001 eligible automated data which are processed only for the purpose of historical research in compliance with the relevant conditions are exempt from the first data protection principle to the extent to which it requires compliance with the conditions in Schedules 2 and 3.

(2) Eligible automated data which are processed—

(a) only for the purpose of historical research,

(b) in compliance with the relevant conditions, and

(c) otherwise than by reference to the data subject,

are also exempt from the provisions referred to in sub-paragraph (3) after 23rd October 2001.

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(3) The provisions referred to in sub-paragraph (2) are—

(a) the first data protection principle except in so far as it requires compliance with paragraph 2 of Part II of Schedule 1,

(b) the second, third, fourth and fifth data protection principles, and

(c) section 14(1) to (3).

18 For the purposes of this Part of this Schedule personal data are not to be treated as processed otherwise than for the purpose of historical research merely because the data are disclosed—

(a) to any person, for the purpose of historical research only,

(b) to the data subject or a person acting on his behalf,

(c) at the request, or with the consent, of the data subject or a person acting on his behalf, or

(d) in circumstances in which the person making the disclosure has reasonable grounds for believing that the disclosure falls within paragraph (a), (b) or (c).

PART V

EXEMPTION FROM SECTION 22

19 Processing which was already under way immediately before 24th October 1998 is not assessable processing for the purposes of section 22.

SCHEDULE 9

Section 50.

POWERS OF ENTRY AND INSPECTION

Modifications etc. (not altering text)

C11 Sch. 9 applied (with modifications) (1.3.2000) by S.I. 1999/2093, reg. 34, **Sch. 3 para. 5(3)**

C12 Sch. 9 extended (with modifications) (11.12.2003) by The Privacy and Electronic Communications (EC Directive) Regulations 2003 (S.I. 2003/2426), **reg. 31**, Sch. 1 (with regs. 4, 15(3), 28, 29)

Issue of warrants

1 (1) If a circuit judge is satisfied by information on oath supplied by the Commissioner that there are reasonable grounds for suspecting—

(a) that a data controller has contravened or is contravening any of the data protection principles, or

(b) that an offence under this Act has been or is being committed,

and that evidence of the contravention or of the commission of the offence is to be found on any premises specified in the information, he may, subject to sub-paragraph (2) and paragraph 2, grant a warrant to the Commissioner.

[F53(1A) Sub-paragraph (1B) applies if a circuit judge or a District Judge (Magistrates' Courts) is satisfied by information on oath supplied by the Commissioner that a data controller has failed to comply with a requirement imposed by an assessment notice.

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(1B) The judge may, for the purpose of enabling the Commissioner to determine whether the data controller has complied or is complying with the data protection principles, grant a warrant to the Commissioner in relation to any premises that were specified in the assessment notice; but this is subject to sub-paragraph (2) and paragraph 2.**]**

(2) A judge shall not issue a warrant under this Schedule in respect of any personal data processed for the special purposes unless a determination by the Commissioner under section 45 with respect to those data has taken effect.

(3) A warrant issued under **[**[F54]this Schedule**]** shall authorise the Commissioner or any of his officers or staff at any time within seven days of the date of the warrant

[[F55](a) to enter the premises;

(b) to search the premises;

(c) to inspect, examine, operate and test any equipment found on the premises which is used or intended to be used for the processing of personal data;

(d) to inspect and seize any documents or other material found on the premises which—

(i) in the case of a warrant issued under sub-paragraph (1), may be such evidence as is mentioned in that paragraph;

(ii) in the case of a warrant issued under sub-paragraph (1B), may enable the Commissioner to determine whether the data controller has complied or is complying with the data protection principles;

(e) to require any person on the premises to provide an explanation of any document or other material found on the premises;

(f) to require any person on the premises to provide such other information as may reasonably be required for the purpose of determining whether the data controller has contravened, or is contravening, the data protection principles.**]**

Textual Amendments

F53 Sch. 9 para. 1(1A)(1B) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(2)** (with s. 180 Sch. 22 para. 46); S.I. 2010/816, **art. 2**, Sch. para. 19

F54 Words in Sch. 9 para. 1(3) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(3)(a)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

F55 Words in Sch. 9 para. 1(3) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(3)(b)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

Modifications etc. (not altering text)

C13 Sch. 9 para. 1: power of seizure extended (1.4.2003) by 2001 c. 16, ss. 50, 52-54, 68, 138(2)-(4), Sch. 1 Pt. 1 para. 65; S.I. 2003/708, **art. 2**

2 (1) A judge shall not issue a warrant under this Schedule unless he is satisfied—

(a) that the Commissioner has given seven days' notice in writing to the occupier of the premises in question demanding access to the premises, and

(b) that either—

(i) access was demanded at a reasonable hour and was unreasonably refused, or

(ii) although entry to the premises was granted, the occupier unreasonably refused to comply with a request by the Commissioner

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or any of the Commissioner's officers or staff to permit the Commissioner or the officer or member of staff to do any of the things referred to in paragraph 1(3), and

(c) that the occupier, has, after the refusal, been notified by the Commissioner of the application for the warrant and has had an opportunity of being heard by the judge on the question whether or not it should be issued.

[[F56](1A) In determining whether the Commissioner has given an occupier the seven days' notice referred to in sub-paragraph (1)(a) any assessment notice served on the occupier is to be disregarded.**]**

(2) Sub-paragraph (1) shall not apply if the judge is satisfied that the case is one of urgency or that compliance with those provisions would defeat the object of the entry.

Textual Amendments

F56 Sch. 9 para. 2(1A) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(4)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

3 A judge who issues a warrant under this Schedule shall also issue two copies of it and certify them clearly as copies.

Execution of warrants

4 A person executing a warrant issued under this Schedule may use such reasonable force as may be necessary.

5 A warrant issued under this Schedule shall be executed at a reasonable hour unless it appears to the person executing it that there are grounds for suspecting that the **[**[F57]object of the warrant would be defeated**]** if it were so executed.

Textual Amendments

F57 Words in Sch. 9 para. 5 substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(5)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

6 If the person who occupies the premises in respect of which a warrant is issued under this Schedule is present when the warrant is executed, he shall be shown the warrant and supplied with a copy of it; and if that person is not present a copy of the warrant shall be left in a prominent place on the premises.

7 (1) A person seizing anything in pursuance of a warrant under this Schedule shall give a receipt for it if asked to do so.

(2) Anything so seized may be retained for so long as is necessary in all the circumstances but the person in occupation of the premises in question shall be given a copy of anything that is seized if he so requests and the person executing the warrant considers that it can be done without undue delay.

Modifications etc. (not altering text)

C14 Sch. 9 para. 7(2) applied (1.4.2003) by 2001 c. 16, ss. 57(1)(m), 138(2); S.I. 2003/708, **art. 2**

Status: *Point in time view as at 06/04/2010.*
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Matters exempt from inspection and seizure

8 The powers of inspection and seizure conferred by a warrant issued under this Schedule shall not be exercisable in respect of personal data which by virtue of section 28 are exempt from any of the provisions of this Act.

9 (1) Subject to the provisions of this paragraph, the powers of inspection and seizure conferred by a warrant issued under this Schedule shall not be exercisable in respect of—

(a) any communication between a professional legal adviser and his client in connection with the giving of legal advice to the client with respect to his obligations, liabilities or rights under this Act, or

(b) any communication between a professional legal adviser and his client, or between such an adviser or his client and any other person, made in connection with or in contemplation of proceedings under or arising out of this Act (including proceedings before the Tribunal) and for the purposes of such proceedings.

(2) Sub-paragraph (1) applies also to—

(a) any copy or other record of any such communication as is there mentioned, and

(b) any document or article enclosed with or referred to in any such communication if made in connection with the giving of any advice or, as the case may be, in connection with or in contemplation of and for the purposes of such proceedings as are there mentioned.

(3) This paragraph does not apply to anything in the possession of any person other than the professional legal adviser or his client or to anything held with the intention of furthering a criminal purpose.

(4) In this paragraph references to the client of a professional legal adviser include references to any person representing such a client.

10 If the person in occupation of any premises in respect of which a warrant is issued under this Schedule objects to the inspection or seizure under the warrant of any material on the grounds that it consists partly of matters in respect of which those powers are not exercisable, he shall, if the person executing the warrant so requests, furnish that person with a copy of so much of the material as is not exempt from those powers.

Return of warrants

11 A warrant issued under this Schedule shall be returned to the court from which it was issued—

(a) after being executed, or

(b) if not executed within the time authorised for its execution;

and the person by whom any such warrant is executed shall make an endorsement on it stating what powers have been exercised by him under the warrant.

Offences

12 Any person who—

(a) intentionally obstructs a person in the execution of a warrant issued under this Schedule, [F58]. . .

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(b) fails without reasonable excuse to give any person executing such a warrant such assistance as he may reasonably require for the execution of the warrant,

[[F59](c) makes a statement in response to a requirement under paragraph (e) or (f) of paragraph 1(3) which that person knows to be false in a material respect, or

(d) recklessly makes a statement in response to such a requirement which is false in a material respect,**]**

is guilty of an offence.

Textual Amendments

F58 Word in Sch. 9 para. 12 repealed (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 178, 182, **Sch. 23 Pt. 8** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 22

F59 Sch. 9 para. 12(c)(d) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(6)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

Vessels, vehicles etc.

13 In this Schedule "premises" includes any vessel, vehicle, aircraft or hovercraft, and references to the occupier of any premises include references to the person in charge of any vessel, vehicle, aircraft or hovercraft.

Scotland and Northern Ireland

14 In the application of this Schedule to Scotland—

(a) for any reference to a circuit judge there is substituted a reference to the sheriff,

(b) for any reference to information on oath there is substituted a reference to evidence on oath, and

(c) for the reference to the court from which the warrant was issued there is substituted a reference to the sheriff clerk.

15 In the application of this Schedule to Northern Ireland—

(a) for any reference to a circuit judge there is substituted a reference to a county court judge, and

(b) for any reference to information on oath there is substituted a reference to a complaint on oath.

[[F60]*Self-incrimination*

Textual Amendments

F60 Sch. 9 para. 16 and cross-heading inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), ss. 175, 182, **Sch. 20 para. 14(7)** (with s. 180); S.I. 2010/816, **art. 2**, Sch. para. 19

16 An explanation given, or information provided, by a person in response to a requirement under paragraph (e) or (f) of paragraph 1(3) may only be used in evidence against that person—

(a) on a prosecution for an offence under—

(i) paragraph 12,

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(ii) section 5 of the Perjury Act 1911 (false statements made otherwise than on oath),

(iii) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath), or

(iv) Article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements), or

(b) on a prosecution for any other offence where—

(i) in giving evidence that person makes a statement inconsistent with that explanation or information, and

(ii) evidence relating to that explanation or information is adduced, or a question relating to it is asked, by that person or on that person's behalf.**]**

SCHEDULE 10

Section 53(6).

FURTHER PROVISIONS RELATING TO ASSISTANCE UNDER SECTION 53

1 In this Schedule "applicant" and "proceedings" have the same meaning as in section 53.

2 The assistance provided under section 53 may include the making of arrangements for, or for the Commissioner to bear the costs of—

(a) the giving of advice or assistance by a solicitor or counsel, and

(b) the representation of the applicant, or the provision to him of such assistance as is usually given by a solicitor or counsel—

(i) in steps preliminary or incidental to the proceedings, or

(ii) in arriving at or giving effect to a compromise to avoid or bring an end to the proceedings.

3 Where assistance is provided with respect to the conduct of proceedings—

(a) it shall include an agreement by the Commissioner to indemnify the applicant (subject only to any exceptions specified in the notification) in respect of any liability to pay costs or expenses arising by virtue of any judgment or order of the court in the proceedings,

(b) it may include an agreement by the Commissioner to indemnify the applicant in respect of any liability to pay costs or expenses arising by virtue of any compromise or settlement arrived at in order to avoid the proceedings or bring the proceedings to an end, and

(c) it may include an agreement by the Commissioner to indemnify the applicant in respect of any liability to pay damages pursuant to an undertaking given on the grant of interlocutory relief (in Scotland, an interim order) to the applicant.

4 Where the Commissioner provides assistance in relation to any proceedings, he shall do so on such terms, or make such other arrangements, as will secure that a person against whom the proceedings have been or are commenced is informed that assistance has been or is being provided by the Commissioner in relation to them.

5 In England and Wales or Northern Ireland, the recovery of expenses incurred by the Commissioner in providing an applicant with assistance (as taxed or assessed in

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such manner as may be prescribed by rules of court) shall constitute a first charge for the benefit of the Commissioner—

(a) on any costs which, by virtue of any judgment or order of the court, are payable to the applicant by any other person in respect of the matter in connection with which the assistance is provided, and

(b) on any sum payable to the applicant under a compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

6 In Scotland, the recovery of such expenses (as taxed or assessed in such manner as may be prescribed by rules of court) shall be paid to the Commissioner, in priority to other debts—

(a) out of any expenses which, by virtue of any judgment or order of the court, are payable to the applicant by any other person in respect of the matter in connection with which the assistance is provided, and

(b) out of any sum payable to the applicant under a compromise or settlement arrived at in connection with that matter to avoid or bring to an end any proceedings.

Commencement Information

I13 Sch. 10 para. 6 wholly in force at 1.3.2000; Sch. 10 para. 6 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 10 para. 6 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

SCHEDULE 11

Section 68(1)(6).

EDUCATIONAL RECORDS

Meaning of "educational record"

1 For the purposes of section 68 "educational record" means any record to which paragraph 2, 5 or 7 applies.

England and Wales

2 This paragraph applies to any record of information which—

(a) is processed by or on behalf of the governing body of, or a teacher at, any school in England and Wales specified in paragraph 3,

(b) relates to any person who is or has been a pupil at the school, and

(c) originated from or was supplied by or on behalf of any of the persons specified in paragraph 4,

other than information which is processed by a teacher solely for the teacher's own use.

3 The schools referred to in paragraph 2(a) are—

(a) a school maintained by a local education authority, and

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(b) a special school, as defined by section 6(2) of the [M4]Education Act 1996, which is not so maintained.

Marginal Citations

M4 1996 c. 56.

4 The persons referred to in paragraph 2(c) are—

(a) an employee of the local education authority which maintains the school,

(b) in the case of—

(i) a voluntary aided, foundation or foundation special school (within the meaning of the School Standards and Framework Act 1998), or

(ii) a special school which is not maintained by a local eduction authority,

a teacher or other employee at the school (including an educational psychologist engaged by the governing body under a contract for services),

(c) the pupil to whom the record relates, and

(d) a parent, as defined by section 576(1) of the Education Act 1996, of that pupil.

[[F61]4A In paragraphs 3 and 4 "local authority" has the meaning given by section 579(1) of the Education Act 1996.**]**

Textual Amendments

F61 Sch. 11 para. 4A inserted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), arts. 1, 5(1), **Sch. 2 para. 42(3)**

Scotland

5 This paragraph applies to any record of information which is processed—

(a) by an education authority in Scotland, and

(b) for the purpose of the relevant function of the authority,

other than information which is processed by a teacher solely for the teacher's own use.

6 For the purposes of paragraph 5—

(a) "education authority" means an education authority within the meaning of the [M5]Education (Scotland) Act 1980 ("the 1980 Act") **[**[F62]or, in relation to a self-governing school, the board of management within the meaning of the [M6]Self-Governing Schools etc. (Scotland) Act 1989 ("the 1989 Act")**]**,

(b) "the relevant function" means, in relation to each of those authorities, their function under section 1 of the 1980 Act and section 7(1) of the 1989 Act, and

(c) information processed by an education authority is processed for the purpose of the relevant function of the authority if the processing relates to the discharge of that function in respect of a person—

(i) who is or has been a pupil in a school provided by the authority, or

Status: *Point in time view as at 06/04/2010.*
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(ii) who receives, or has received, further education (within the meaning of the 1980 Act) so provided.

Textual Amendments

F62 Words in Sch. 11 para. 6(a) repealed (S.) (31.12.2004) by 2000 asp 6, ss. 60(2), 61(2), Sch. 3; S.S.I. 2004/528, **art. 2**

Marginal Citations

M5 1980 c. 44.

M6 1989 c. 39.

Northern Ireland

7 (1) This paragraph applies to any record of information which—

(a) is processed by or on behalf of the Board of Governors of, or a teacher at, any grant-aided school in Northern Ireland,

(b) relates to any person who is or has been a pupil at the school, and

(c) originated from or was supplied by or on behalf of any of the persons specified in paragraph 8,

other than information which is processed by a teacher solely for the teacher's own use.

(2) In sub-paragraph (1) "grant-aided school" has the same meaning as in the [M7]Education and Libraries (Northern Ireland) Order 1986.

Marginal Citations

M7 S.I. 1986/594 (N.I.3).

8 The persons referred to in paragraph 7(1) are—

(a) a teacher at the school,

(b) an employee of an education and library board, other than such a teacher,

(c) the pupil to whom the record relates, and

(d) a parent (as defined by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986) of that pupil.

England and Wales: transitory provisions

9 (1) Until the appointed day within the meaning of section 20 of the School Standards and Framework Act 1998, this Schedule shall have effect subject to the following modifications.

(2) Paragraph 3 shall have effect as if for paragraph (b) and the "and" immediately preceding it there were substituted—

"(aa) a grant-maintained school, as defined by section 183(1) of the Education Act 1996,

(ab) a grant-maintained special school, as defined by section 337(4) of that Act, and

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(b) a special school, as defined by section 6(2) of that Act, which is neither a maintained special school, as defined by section 337(3) of that Act, nor a grant-maintained special school."

(3) Paragraph 4(b)(i) shall have effect as if for the words from "foundation", in the first place where it occurs, to "1998)" there were substituted " or grant-maintained school ".

SCHEDULE 12

Section 68(1)(c).

ACCESSIBLE PUBLIC RECORDS

Meaning of "accessible public record"

1 For the purposes of section 68 "accessible public record" means any record which is kept by an authority specified—

(a) as respects England and Wales, in the Table in paragraph 2,

(b) as respects Scotland, in the Table in paragraph 4, or

(c) as respects Northern Ireland, in the Table in paragraph 6,

and is a record of information of a description specified in that Table in relation to that authority.

Housing and social services records: England and Wales

2 The following is the Table referred to in paragraph 1(a).

TABLE OF AUTHORITIES AND INFORMATION

The authorities	***The accessible information***
Housing Act local authority.	Information held for the purpose of any of the authority's tenancies.
Local social services authority.	Information held for any purpose of the authority's social services functions.

3 (1) The following provisions apply for the interpretation of the Table in paragraph 2.

(2) Any authority which, by virtue of section 4(e) of the [M8]Housing Act 1985, is a local authority for the purpose of any provision of that Act is a "Housing Act local authority" for the purposes of this Schedule, and so is any housing action trust established under Part III of the [M9]Housing Act 1988.

(3) Information contained in records kept by a Housing Act local authority is "held for the purpose of any of the authority's tenancies" if it is held for any purpose of the relationship of landlord and tenant of a dwelling which subsists, has subsisted or may subsist between the authority and any individual who is, has been or, as the case may be, has applied to be, a tenant of the authority.

(4) Any authority which, by virtue of section 1 or 12 of the [M10]Local Authority Social Services Act 1970, is or is treated as a local authority for the purposes of that Act is a "local social services authority" for the purposes of this Schedule; and information contained in records kept by such an authority is "held for any purpose of the

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authority's social services functions" if it is held for the purpose of any past, current or proposed exercise of such a function in any case.

(5) Any expression used in paragraph 2 or this paragraph and in Part II of the Housing Act 1985 or the Local Authority Social Services Act 1970 has the same meaning as in that Act.

Marginal Citations
M8 1985 c. 68.
M9 1988 c. 50.
M10 1970 c. 42.

Housing and social services records: Scotland

4 The following is the Table referred to in paragraph 1(b).

TABLE OF AUTHORITIES AND INFORMATION

The authorities	***The accessible information***
Local authority. Scottish Homes.	Information held for the purpose of any of the body's tenancies.
Social work authority.	Information held for any purpose of the authority's functions under the Social Work (Scotland) Act 1968 and the enactments referred to in section 5(1B) of that Act.

5 (1) The following provisions apply for the interpretation of the Table in paragraph 4.

(2) "Local authority" means—

(a) a council constituted under section 2 of the [M11]Local Government etc. (Scotland) Act 1994,

(b) a joint board or joint committee of two or more of those councils, or

(c) any trust under the control of such a council.

(3) Information contained in records kept by a local authority or Scottish Homes is held for the purpose of any of their tenancies if it is held for any purpose of the relationship of landlord and tenant of a dwelling-house which subsists, has subsisted or may subsist between the authority or, as the case may be, Scottish Homes and any individual who is, has been or, as the case may be, has applied to be a tenant of theirs.

(4) "Social work authority" means a local authority for the purposes of the [M12]Social Work (Scotland) Act 1968; and information contained in records kept by such an authority is held for any purpose of their functions if it is held for the purpose of any past, current or proposed exercise of such a function in any case.

Marginal Citations
M11 1994 c. 39.
M12 1968 c. 49.

Status: *Point in time view as at 06/04/2010.*
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Housing and social services records: Northern Ireland

6 The following is the Table referred to in paragraph 1(c).

TABLE OF AUTHORITIES AND INFORMATION

The authorities	***The accessible information***
The Northern Ireland Housing Executive.	Information held for the purpose of any of the Executive's tenancies.
A Health and Social Services Board.	Information held for the purpose of any past, current or proposed exercise by the Board of any function exercisable, by virtue of directions under Article 17(1) of the Health and Personal Social Services (Northern Ireland) Order 1972, by the Board on behalf of the Department of Health and Social Services with respect to the administration of personal social services under— (a) the Children and Young Persons Act (Northern Ireland) 1968; (b) the Health and Personal Social Services (Northern Ireland) Order 1972; (c) Article 47 of the Matrimonial Causes (Northern Ireland) Order 1978; (d) Article 11 of the Domestic Proceedings (Northern Ireland) Order 1980; (e) the Adoption (Northern Ireland) Order 1987; or (f) the Children (Northern Ireland) Order 1995.
An HSS trust	Information held for the purpose of any past, current or proposed exercise by the trust of any function exercisable, by virtue of an authorisation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994, by the trust on behalf of a Health and Social Services Board with respect to the administration of personal social services under any statutory provision mentioned in the last preceding entry.

7 (1) This paragraph applies for the interpretation of the Table in paragraph 6.

(2) Information contained in records kept by the Northern Ireland Housing Executive is "held for the purpose of any of the Executive's tenancies" if it is held for any purpose of the relationship of landlord and tenant of a dwelling which subsists, has subsisted or may subsist between the Executive and any individual who is, has been or, as the case may be, has applied to be, a tenant of the Executive.

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SCHEDULE 13

Section 72.

MODIFICATIONS OF ACT HAVING EFFECT BEFORE 24TH OCTOBER 2007

1 After section 12 there is inserted—

"12A Rights of data subjects in relation to exempt manual data.

(1) A data subject is entitled at any time by notice in writing—

(a) to require the data controller to rectify, block, erase or destroy exempt manual data which are inaccurate or incomplete, or

(b) to require the data controller to cease holding exempt manual data in a way incompatible with the legitimate purposes pursued by the data controller.

(2) A notice under subsection (1)(a) or (b) must state the data subject's reasons for believing that the data are inaccurate or incomplete or, as the case may be, his reasons for believing that they are held in a way incompatible with the legitimate purposes pursued by the data controller.

(3) If the court is satisfied, on the application of any person who has given a notice under subsection (1) which appears to the court to be justified (or to be justified to any extent) that the data controller in question has failed to comply with the notice, the court may order him to take such steps for complying with the notice (or for complying with it to that extent) as the court thinks fit.

(4) In this section "exempt manual data" means—

(a) in relation to the first transitional period, as defined by paragraph 1(2) of Schedule 8, data to which paragraph 3 or 4 of that Schedule applies, and

(b) in relation to the second transitional period, as so defined, data to which paragraph 14 **[**[F63]or 14A**]** of that Schedule applies.

(5) For the purposes of this section personal data are incomplete if, and only if, the data, although not inaccurate, are such that their incompleteness would constitute a contravention of the third or fourth data protection principles, if those principles applied to the data."

Textual Amendments

F63 Words in Sch. 13 para. 1 inserted (1.1.2005) by 2000 c. 36, ss. 70(4), 87(3) (with ss. 56, 78); S.I. 2004/1909, **art. 2**; S.I. 2004/3122, **art. 2**

2 In section 32—

(a) in subsection (2) after "section 12" there is inserted—

"(dd) section 12A,", and

(b) in subsection (4) after "12(8)" there is inserted " , 12A(3) ".

3 In section 34 for "section 14(1) to (3)" there is substituted " sections 12A and 14(1) to (3). "

4 In section 53(1) after "12(8)" there is inserted " , 12A(3) ".

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5 In paragraph 8 of Part II of Schedule 1, the word "or" at the end of paragraph (c) is omitted and after paragraph (d) there is inserted "or

(e) he contravenes section 12A by failing to comply with a notice given under subsection (1) of that section to the extent that the notice is justified."

SCHEDULE 14

Section 73.

TRANSITIONAL PROVISIONS AND SAVINGS

Interpretation

1 In this Schedule— "the 1984 Act" means the [M13]Data Protection Act 1984; "the old principles" means the data protection principles within the meaning of the 1984 Act; "the new principles" means the data protection principles within the meaning of this Act.

Marginal Citations
M13 1984 c. 35.

Effect of registration under Part II of 1984 Act

2 (1) Subject to sub-paragraphs (4) and (5) any person who, immediately before the commencement of Part III of this Act—

(a) is registered as a data user under Part II of the 1984 Act, or

(b) is treated by virtue of section 7(6) of the 1984 Act as so registered,

is exempt from section 17(1) of this Act until the end of the registration period [F64]. . ..

(2) In sub-paragraph (1) "the registration period", in relation to a person, means—

(a) where there is a single entry in respect of that person as a data user, the period at the end of which, if section 8 of the 1984 Act had remained in force, that entry would have fallen to be removed unless renewed, and

(b) where there are two or more entries in respect of that person as a data user, the period at the end of which, if that section had remained in force, the last of those entries to expire would have fallen to be removed unless renewed.

(3) Any application for registration as a data user under Part II of the 1984 Act which is received by the Commissioner before the commencement of Part III of this Act (including any appeal against a refusal of registration) shall be determined in accordance with the old principles and the provisions of the 1984 Act.

(4) If a person falling within paragraph (b) of sub-paragraph (1) receives a notification under section 7(1) of the 1984 Act of the refusal of his application, sub-paragraph (1) shall cease to apply to him—

(a) if no appeal is brought, at the end of the period within which an appeal can be brought against the refusal, or

(b) on the withdrawal or dismissal of the appeal.

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(5) If a data controller gives a notification under section 18(1) at a time when he is exempt from section 17(1) by virtue of sub-paragraph (1), he shall cease to be so exempt.

(6) The Commissioner shall include in the register maintained under section 19 an entry in respect of each person who is exempt from section 17(1) by virtue of sub-paragraph (1); and each entry shall consist of the particulars which, immediately before the commencement of Part III of this Act, were included (or treated as included) in respect of that person in the register maintained under section 4 of the 1984 Act.

(7) Notification regulations under Part III of this Act may make provision modifying the duty referred to in section 20(1) in its application to any person in respect of whom an entry in the register maintained under section 19 has been made under sub-paragraph (6).

(8) Notification regulations under Part III of this Act may make further transitional provision in connection with the substitution of Part III of this Act for Part II of the 1984 Act (registration), including provision modifying the application of provisions of Part III in transitional cases.

Textual Amendments

F64 Words in Sch. 14 para. 2(1) repealed (30.11.2000) by 2000 c. 36, ss. 73, 86, 87(1)(k)(l), Sch. 6 para. 8, **Sch. 8 Pt. I** (with ss. 56, 78)

Commencement Information

I14 Sch. 14 para. 2 wholly in force at 1.3.2000; Sch. 14 para. 2 in force for certain purposes at Royal Assent see s. 75(2)(i); Sch. 14 para. 2 in force at 1.3.2000 insofar as not already in force by S.I. 2000/183, **art. 2(1)**

Rights of data subjects

3 (1) The repeal of section 21 of the 1984 Act (right of access to personal data) does not affect the application of that section in any case in which the request (together with the information referred to in paragraph (a) of subsection (4) of that section and, in a case where it is required, the consent referred to in paragraph (b) of that subsection) was received before the day on which the repeal comes into force.

(2) Sub-paragraph (1) does not apply where the request is made by reference to this Act.

(3) Any fee paid for the purposes of section 21 of the 1984 Act before the commencement of section 7 in a case not falling within sub-paragraph (1) shall be taken to have been paid for the purposes of section 7.

4 The repeal of section 22 of the 1984 Act (compensation for inaccuracy) and the repeal of section 23 of that Act (compensation for loss or unauthorised disclosure) do not affect the application of those sections in relation to damage or distress suffered at any time by reason of anything done or omitted to be done before the commencement of the repeals.

5 The repeal of section 24 of the 1984 Act (rectification and erasure) does not affect any case in which the application to the court was made before the day on which the repeal comes into force.

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6 Subsection (3)(b) of section 14 does not apply where the rectification, blocking, erasure or destruction occurred before the commencement of that section.

Enforcement and transfer prohibition notices served under Part V of 1984 Act

7 (1) If, immediately before the commencement of section 40—
(a) an enforcement notice under section 10 of the 1984 Act has effect, and
(b) either the time for appealing against the notice has expired or any appeal has been determined,

then, after that commencement, to the extent mentioned in sub-paragraph (3), the notice shall have effect for the purposes of sections 41 and 47 as if it were an enforcement notice under section 40.

(2) Where an enforcement notice has been served under section 10 of the 1984 Act before the commencement of section 40 and immediately before that commencement either—
(a) the time for appealing against the notice has not expired, or
(b) an appeal has not been determined,

the appeal shall be determined in accordance with the provisions of the 1984 Act and the old principles and, unless the notice is quashed on appeal, to the extent mentioned in sub-paragraph (3) the notice shall have effect for the purposes of sections 41 and 47 as if it were an enforcement notice under section 40.

(3) An enforcement notice under section 10 of the 1984 Act has the effect described in sub-paragraph (1) or (2) only to the extent that the steps specified in the notice for complying with the old principle or principles in question are steps which the data controller could be required by an enforcement notice under section 40 to take for complying with the new principles or any of them.

Modifications etc. (not altering text)
C15 Sch. 14 para. 7 excluded (1.3.2000) by S.I. 1999/2093, reg. 34, **Sch. 3 para. 4(1)**

8 (1) If, immediately before the commencement of section 40—
(a) a transfer prohibition notice under section 12 of the 1984 Act has effect, and
(b) either the time for appealing against the notice has expired or any appeal has been determined,

then, on and after that commencement, to the extent specified in sub-paragraph (3), the notice shall have effect for the purposes of sections 41 and 47 as if it were an enforcement notice under section 40.

(2) Where a transfer prohibition notice has been served under section 12 of the 1984 Act and immediately before the commencement of section 40 either—
(a) the time for appealing against the notice has not expired, or
(b) an appeal has not been determined,

the appeal shall be determined in accordance with the provisions of the 1984 Act and the old principles and, unless the notice is quashed on appeal, to the extent mentioned in sub-paragraph (3) the notice shall have effect for the purposes of sections 41 and 47 as if it were an enforcement notice under section 40.

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(3) A transfer prohibition notice under section 12 of the 1984 Act has the effect described in sub-paragraph (1) or (2) only to the extent that the prohibition imposed by the notice is one which could be imposed by an enforcement notice under section 40 for complying with the new principles or any of them.

Notices under new law relating to matters in relation to which 1984 Act had effect

9 The Commissioner may serve an enforcement notice under section 40 on or after the day on which that section comes into force if he is satisfied that, before that day, the data controller contravened the old principles by reason of any act or omission which would also have constituted a contravention of the new principles if they had applied before that day.

10 Subsection (5)(b) of section 40 does not apply where the rectification, blocking, erasure or destruction occurred before the commencement of that section.

11 The Commissioner may serve an information notice under section 43 on or after the day on which that section comes into force if he has reasonable grounds for suspecting that, before that day, the data controller contravened the old principles by reason of any act or omission which would also have constituted a contravention of the new principles if they had applied before that day.

12 Where by virtue of paragraph 11 an information notice is served on the basis of anything done or omitted to be done before the day on which section 43 comes into force, subsection (2)(b) of that section shall have effect as if the reference to the data controller having complied, or complying, with the new principles were a reference to the data controller having contravened the old principles by reason of any such act or omission as is mentioned in paragraph 11.

Self-incrimination, etc.

13 (1) In section 43(8), section 44(9) and paragraph 11 of Schedule 7, any reference to an offence under this Act includes a reference to an offence under the 1984 Act.

(2) In section 34(9) of the 1984 Act, any reference to an offence under that Act includes a reference to an offence under this Act.

Warrants issued under 1984 Act

14 The repeal of Schedule 4 to the 1984 Act does not affect the application of that Schedule in any case where a warrant was issued under that Schedule before the commencement of the repeal.

Complaints under section 36(2) of 1984 Act and requests for assessment under section 42

15 The repeal of section 36(2) of the 1984 Act does not affect the application of that provision in any case where the complaint was received by the Commissioner before the commencement of the repeal.

16 In dealing with a complaint under section 36(2) of the 1984 Act or a request for an assessment under section 42 of this Act, the Commissioner shall have regard to the provisions from time to time applicable to the processing, and accordingly—

(a) in section 36(2) of the 1984 Act, the reference to the old principles and the provisions of that Act includes, in relation to any time when the new

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principles and the provisions of this Act have effect, those principles and provisions, and

(b) in section 42 of this Act, the reference to the provisions of this Act includes, in relation to any time when the old principles and the provisions of the 1984 Act had effect, those principles and provisions.

Applications under Access to Health Records Act 1990 or corresponding Northern Ireland legislation

17 (1) The repeal of any provision of the [M14]Access to Health Records Act 1990 does not affect—

(a) the application of section 3 or 6 of that Act in any case in which the application under that section was received before the day on which the repeal comes into force, or

(b) the application of section 8 of that Act in any case in which the application to the court was made before the day on which the repeal comes into force.

(2) Sub-paragraph (1)(a) does not apply in relation to an application for access to information which was made by reference to this Act.

Marginal Citations

M14 1990 c. 23.

18 (1) The revocation of any provision of the [M15]Access to Health Records (Northern Ireland) Order 1993 does not affect—

(a) the application of Article 5 or 8 of that Order in any case in which the application under that Article was received before the day on which the repeal comes into force, or

(b) the application of Article 10 of that Order in any case in which the application to the court was made before the day on which the repeal comes into force.

(2) Sub-paragraph (1)(a) does not apply in relation to an application for access to information which was made by reference to this Act.

Marginal Citations

M15 S.I. 1993/1250 (N.I.4).

Applications under regulations under Access to Personal Files Act 1987 or corresponding Northern Ireland legislation

19 (1) The repeal of the personal files enactments does not affect the application of regulations under those enactments in relation to—

(a) any request for information,

(b) any application for rectification or erasure, or

(c) any application for review of a decision,

which was made before the day on which the repeal comes into force.

(2) Sub-paragraph (1)(a) does not apply in relation to a request for information which was made by reference to this Act.

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(3) In sub-paragraph (1) "the personal files enactments" means—

(a) in relation to Great Britain, the [M16]Access to Personal Files Act 1987, and

(b) in relation to Northern Ireland, Part II of the [M17]Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.

Marginal Citations

M16 1987 c. 37.

M17 S.I. 1991/1707 (N.I.14).

Applications under section 158 of Consumer Credit Act 1974

20 Section 62 does not affect the application of section 158 of the [M18]Consumer Credit Act 1974 in any case where the request was received before the commencement of section 62, unless the request is made by reference to this Act.

Marginal Citations

M18 1974 c. 39.

SCHEDULE 15

Section 74(1).

MINOR AND CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51)

1 [F65](1) . . . . . .

[F66](2) . . . . . .

[F66](3) . . . . . .

Textual Amendments

F65 Sch. 15 para. 1(1) repealed (30.1.2001) by 2000 c. 36, ss. 86, 87(2)(d), **Sch. 8 Pt. II** (with ss. 56, 78)

F66 Sch. 15 para. 1(2)(3) repealed (1.1.2005) by 2000 c. 36, ss. 86, 87(3), Sch. 8 Pt. III (with ss. 56, 78); S.I. 2004/3122, **art. 2**

Parliamentary Commissioner Act 1967 (c. 13)

[F67]2 . . . . . .

Textual Amendments

F67 Sch. 15 para. 2 repealed (30.1.2001) by 2000 c. 36, ss. 86, 87(2)(d), **Sch. 8 Pt. II** (with ss. 56, 78)

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[F68]3 . . . . . .

Textual Amendments

F68 Sch. 15 para. 3 repealed (1.1.2005) by 2000 c. 36, ss. 86, 87(3), Sch. 8 Pt. III (with ss. 56, 78); S.I. 2004/3122, **art. 2**

Superannuation Act 1972 (c. 11)

[F69]4 . . . . . .

Textual Amendments

F69 Sch. 15 para. 4 repealed (30.1.2001) by 2000 c. 36, ss. 86, 87(2)(d), **Sch. 8 Pt. II** (with ss. 56, 78)

House of Commons Disqualification Act 1975 (c. 24)

5 [F70](1) . . . . . .

[F71](2) . . . . . .

Textual Amendments

F70 Sch. 15 para. 5(1) repealed (1.1.2005) by 2000 c. 36, ss. 86, 87(3), Sch. 8 Pt. III (with ss. 56, 78); S.I. 2004/3122, **art. 2**

F71 Sch. 15 para. 5(2) repealed (30.1.2001) by 2000 c. 36, ss. 86, 87(2)(d), **Sch. 8 Pt. II** (with ss. 56, 78)

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

6 [F72](1) . . . . . .

[F73](2) . . . . . .

Textual Amendments

F72 Sch. 15 para. 6(1) repealed (1.1.2005) by 2000 c. 36, ss. 86, 87(3), Sch. 8 Pt. III (with ss. 56, 78); S.I. 2004/3122, **art. 2**

F73 Sch. 15 para. 6(2) repealed (30.1.2001) by 2000 c. 36, ss. 86, 87(2)(d), **Sch. 8 Pt. II** (with ss. 56, 78)

Representation of the People Act 1983 (c. 2)

7 In Schedule 2 of the Representation of the People Act 1983 (provisions which may be included in regulations as to registration etc), in paragraph 11A(2)—

(a) for "data user" there is substituted " data controller ", and

(b) for "the Data Protection Act 1984" there is substituted " the Data Protection Act 1998 ".

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Access to Medical Reports Act 1988 (c. 28)

8 In section 2(1) of the Access to Medical Reports Act 1988 (interpretation), in the definition of "health professional", for "the Data Protection (Subject Access Modification) Order 1987" there is substituted " the Data Protection Act 1998 ".

Football Spectators Act 1989 (c. 37)

9 F74 . . . . . .

Textual Amendments

F74 Sch. 15 para. 9 repealed (6.4.2007) by Violent Crime Reduction Act 2006 (c. 38), ss. 65, 66(2), **Sch. 5**; S.I. 2007/858, {art. (m)(n)(vii)}

Education (Student Loans) Act 1990 (c. 6)

10 Schedule 2 to the Education (Student Loans) Act 1990 (loans for students) so far as that Schedule continues in force shall have effect as if the reference in paragraph 4(2) to the Data Protection Act 1984 were a reference to this Act.

Access to Health Records Act 1990 (c. 23)

11 For section 2 of the Access to Health Records Act 1990 there is substituted—

"**2 Health professionals.**

In this Act "health professional" has the same meaning as in the Data Protection Act 1998."

12 In section 3(4) of that Act (cases where fee may be required) in paragraph (a), for "the maximum prescribed under section 21 of the Data Protection Act 1984" there is substituted " such maximum as may be prescribed for the purposes of this section by regulations under section 7 of the Data Protection Act 1998 ".

13 In section 5(3) of that Act (cases where right of access may be partially excluded) for the words from the beginning to "record" in the first place where it occurs there is substituted " Access shall not be given under section 3(2) to any part of a health record ".

Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (1991/1707 (N.I. 14))

14 In Article 4 of the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (obligation to give access), in paragraph (2) (exclusion of information to which individual entitled under section 21 of the Data Protection Act 1984) for "section 21 of the Data Protection Act 1984" there is substituted " section 7 of the Data Protection Act 1998 ".

15 In Article 6(1) of that Order (interpretation), in the definition of "health professional", for "the Data Protection (Subject Access Modification) (Health) Order 1987" there is substituted " the Data Protection Act 1998 ".

Status: *Point in time view as at 06/04/2010.*
Changes to legislation: *Data Protection Act 1998 is up to date with all changes known to be in force on or before 30 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Tribunals and Inquiries Act 1992 (c. 53)

16 In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals), for paragraph 14 there is substituted—

"Data protection	14. (a) The Data Protection Commissioner appointed under section 6 of the Data Protection Act 1998; (b) the Data Protection Tribunal constituted under that section, in respect of its jurisdiction under section 48 of that Act."

Access to Health Records (Northern Ireland) Order 1993 (1993/1250 (N.I. 4))

17 For paragraphs (1) and (2) of Article 4 of the Access to Health Records (Northern Ireland) Order 1993 there is substituted—

"(1) In this Order "health professional" has the same meaning as in the Data Protection Act 1998."

18 In Article 5(4) of that Order (cases where fee may be required) in sub-paragraph (a), for "the maximum prescribed under section 21 of the Data Protection Act 1984" there is substituted " such maximum as may be prescribed for the purposes of this Article by regulations under section 7 of the Data Protection Act 1998 ".

19 In Article 7 of that Order (cases where right of access may be partially excluded) for the words from the beginning to "record" in the first place where it occurs there is substituted " Access shall not be given under Article 5(2) to any part of a health record ".

SCHEDULE 16

Section 74(2).

REPEALS AND REVOCATIONS

PART I

REPEALS

Chapter	Short title	Extent of repeal
1984 c. 35.	The Data Protection Act 1984.	The whole Act.
1986 c. 60.	The Financial Services Act 1986.	Section 190.
1987 c. 37.	The Access to Personal Files Act 1987.	The whole Act.
1988 c. 40.	The Education Reform Act 1988.	Section 223.

Status: *Point in time view as at 06/04/2010.*
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1988 c. 50.	The Housing Act 1988.	In Schedule 17, paragraph 80.
1990 c. 23.	The Access to Health Records Act 1990.	In section 1(1), the words from “but does not” to the end. In section 3, subsection (1)(a) to (e) and, in subsection (6)(a), the words “in the case of an application made otherwise than by the patient”. Section 4(1) and (2). In section 5(1)(a)(i), the words “of the patient or” and the word “other”. In section 10, in subsection (2) the words “or orders” and in subsection (3) the words “or an order under section 2(3) above”. In section 11, the definitions of “child” and “parental responsibility”.
1990 c. 37.	The Human Fertilisation and Embryology Act 1990.	Section 33(8).
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 10, paragraph 58.
1992 c. 13.	The Further and Higher Education Act 1992.	Section 86.
1992 c. 37.	The Further and Higher Education (Scotland) Act 1992.	Section 59.
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	In Schedule 6, paragraph 50.
1993 c. 10.	The Charities Act 1993.	Section 12.
1993 c. 21.	The Osteopaths Act 1993.	Section 38.
1994 c. 17.	The Chiropractors Act 1994.	Section 38.
1994 c. 19.	The Local Government (Wales) Act 1994.	In Schedule 13, paragraph 30.
1994 c. 33.	The Criminal Justice and Public Order Act 1994.	Section 161.
1994 c. 39.	The Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 154.

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PART II

REVOCATIONS

Number	Title	Extent of revocation
S.I. 1991/1142.	The Data Protection Registration Fee Order 1991.	The whole Order.
S.I. 1991/1707 (N.I. 14).	The Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.	Part II.
		The Schedule.
S.I. 1992/3218.	The Banking Co-ordination (Second Council Directive) Regulations 1992.	In Schedule 10, paragraphs 15 and 40.
S.I. 1993/1250 (N.I. 4).	The Access to Health Records (Northern Ireland) Order 1993.	In Article 2(2), the definitions of "child" and "parental responsibility".
		In Article 3(1), the words from "but does not include" to the end.
		In Article 5, paragraph (1)(a) to (d) and, in paragraph (6)(a), the words "in the case of an application made otherwise than by the patient".
		Article 6(1) and (2).
		In Article 7(1)(a)(i), the words "of the patient or" and the word "other".
S.I. 1994/429 (N.I. 2).	The Health and Personal Social Services (Northern Ireland) Order 1994.	In Schedule 1, the entries relating to the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.
S.I. 1994/1696.	The Insurance Companies (Third Insurance Directives) Regulations 1994.	In Schedule 8, paragraph 8.
S.I. 1995/755 (N.I. 2).	The Children (Northern Ireland) Order 1995.	In Schedule 9, paragraphs 177 and 191.
S.I. 1995/3275.	The Investment Services Regulations 1995.	In Schedule 10, paragraphs 3 and 15.
S.I. 1996/2827.	The Open-Ended Investment Companies (Investment	In Schedule 8, paragraphs 3 and 26.

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Companies with Variable Capital) Regulations 1996.

Status:
Point in time view as at 06/04/2010.

Changes to legislation:
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