



# Health Act 1999

## 1999 CHAPTER 8

### PART I

#### THE NATIONAL HEALTH SERVICE

##### *Quality etc*

#### **24 Restrictions on disclosure of information**

- (1) A person who, without lawful authority, knowingly or recklessly discloses information which—
- (a) falls within section 23(2), and
  - (b) has been obtained by the Commission in accordance with any condition mentioned in section 23(2),
- is guilty of an offence if the disclosure is made during the lifetime of the individual to whom the information relates.
- (2) A person who, without lawful authority, knowingly or recklessly discloses information which—
- (a) relates to and identifies an individual,
  - (b) has been obtained by the Commission on terms or in circumstances requiring it to be held in confidence, and
  - (c) does not fall within subsection (1),
- is guilty of an offence if the disclosure is made during the lifetime of that individual.
- (3) A person guilty of an offence under this section is liable—
- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both, or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (4) It is not an offence under this section—

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*Status: This is the original version (as it was originally enacted).*

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- (a) to disclose information in a form in which the individual to whom the information relates is not identified, or
  - (b) to disclose information which has previously been disclosed to the public with lawful authority.
- (5) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
- (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise, or
  - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (6) For the purposes of this section a disclosure of information is to be regarded as made with lawful authority if, and only if, it is made—
- (a) with the consent of the individual to whom the information relates,
  - (b) for the purpose of facilitating the exercise of any functions of the Commission,
  - (c) for the purpose of facilitating the conduct of any investigation under the Health Service Commissioners Act 1993,
  - (d) in accordance with any enactment or order of a court,
  - (e) in connection with the investigation of a serious arrestable offence,
  - (f) for the purposes of criminal proceedings in any part of the United Kingdom,
  - (g) in a case where the information appears to the Commission to reveal—
    - (i) that the performance of a health professional in his capacity as such has or may have fallen substantially below that which is expected,
    - (ii) that a health professional has or may have been guilty of serious professional misconduct, or
    - (iii) that the fitness of a health professional to practise as such is or may be seriously impaired by reason of his physical or mental condition,and the person to whom the information is disclosed is a person to whom the Commission considers that it should be disclosed in order for appropriate action to be taken, or
  - (h) in a case where—
    - (i) the information reveals that a person is likely to constitute a threat to the health or safety of individuals, and
    - (ii) the person to whom it is disclosed is a person to whom the Commission considers that the information should be disclosed in the interests of the health and safety of individuals.
- (7) For the purposes of subsection (2), information obtained by the Commission is to be regarded as identifying an individual if the individual can be identified—
- (a) from that information, or
  - (b) from that information and from other information obtained by the Commission.
- (8) For the purposes of subsection (4)(a), information disclosed by a person is not to be regarded as being in a form in which an individual is not identified if the individual can be identified—
- (a) from that information, or
  - (b) from that information and from other information disclosed—

- (i) by the Commission, or
  - (ii) by any member or employee of the Commission.
- (9) Any reference in subsection (1), (2), (7) or (8)(b)(i) to the Commission includes a reference to any person authorised by the Commission under section 23.
- (10) In this section—
  - “health professional” has meaning given by section 69(1) of the Data Protection Act 1998,
  - “serious arrestable offence”—
    - (a) in relation to England and Wales, is to be construed in accordance with section 116 of the Police and Criminal Evidence Act 1984,
    - (b) in relation to Scotland, means an offence which is triable on indictment,
    - (c) in relation to Northern Ireland, is to be construed in accordance with Article 87 of the Police and Criminal Evidence (Northern Ireland) Order 1989.