

SCHEDULES

SCHEDULE 7

Section 12

INFORMATION: RESTRICTIONS ON DISCLOSURE

PART 1

STATUTORY RESTRICTIONS

- 1 This Part of this Act does not authorise or require—
- (a) a disclosure, in contravention of any provisions of the Data Protection Act 1998, of personal data which are not exempt from those provisions, or
 - (b) a disclosure which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

PART 2

RESTRICTIONS ON DISCLOSURES OF PARTICULAR TYPES OF INFORMATION

HMRC & customs information

- 2 (1) An NCA officer must not disclose—
- (a) HMRC information,
 - (b) personal customs information, or
 - (c) personal customs revenue information,
- unless the relevant authority consents to the disclosure.
- (2) If an NCA officer has disclosed—
- (a) HMRC information,
 - (b) personal customs information, or
 - (c) personal customs revenue information,
- to a person, that person must not further disclose that information unless the relevant authority consents to the disclosure.
- (3) In this paragraph—
- “HMRC information” means information obtained by the NCA from the Commissioners or a person acting on behalf of the Commissioners;
 - “personal customs information” and “personal customs revenue information” have the same meanings as in the Borders, Citizenship and Immigration Act 2009 (see section 15(4) of that Act);
 - “relevant authority” means—
- (a) the Commissioners or an officer of Revenue and Customs (in the case of a disclosure or further disclosure of HMRC information);

Status: This is the original version (as it was originally enacted).

- (b) the Secretary of State or a designated general customs official (in the case of a disclosure or further disclosure of personal customs information);
- (c) the Director of Border Revenue or a designated customs revenue official (in the case of a disclosure or further disclosure of personal customs revenue information).

Social security information

- 3 (1) An NCA officer must not disclose social security information unless the relevant authority consents to the disclosure.
- (2) If an NCA officer has disclosed social security information to a person, that person must not further disclose that information unless the relevant authority consents to the disclosure.
- (3) In this paragraph—
- “relevant authority” means—
- (a) the Secretary of State (in the case of a disclosure or further disclosure of information held, when disclosed to the NCA, for the purposes of the functions of the Secretary of State);
 - (b) the Department for Social Development in Northern Ireland (in the case of a disclosure or further disclosure of information held, when disclosed to the NCA, for the purposes of the functions of a Northern Ireland department);
- “social security information” means information which, when disclosed to the NCA, was information held for the purposes of any of the following functions of the Secretary of State or a Northern Ireland Department—
- (a) functions relating to social security, including functions relating to—
 - (i) statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits Act 1992;
 - (ii) maternity allowance under section 35 of that Act;
 - (iii) statutory payments as defined in section 4C(11) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
 - (iv) maternity allowance under section 35 of that Act;
 - (v) schemes and arrangements under section 2 of the Employment and Training Act 1973;
 - (b) functions relating to the investigation and prosecution of offences relating to tax credits.

Intelligence service information

- 4 (1) An NCA officer must not disclose intelligence service information unless the relevant authority consents to the disclosure.
- (2) If an NCA officer has disclosed intelligence service information to a person, that person must not further disclose that information unless the relevant authority consents to the disclosure.
- (3) In this paragraph—
- “intelligence service” means—

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

- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) GCHQ (which has the same meaning as in the Intelligence Services Act 1994);

“intelligence service information” means information obtained from an intelligence service or a person acting on behalf of an intelligence service;

“relevant authority” means—

- (a) the Director-General of the Security Service (in the case of information obtained by the NCA from that Service or a person acting on its behalf);
- (b) the Chief of the Secret Intelligence Service (in the case of information obtained by the NCA from that Service or a person acting on its behalf);
- (c) the Director of GCHQ (in the case of information obtained from GCHQ or a person acting on its behalf).

Arrangements for publishing information

- 5 The Director General must not disclose information if the disclosure would be in breach of a requirement that is imposed on the Director General by the framework document in accordance with section 6(2).

PART 3

RESTRICTIONS ON FURTHER DISCLOSURES OF INFORMATION

Information generally

- 6 (1) If an NCA officer has disclosed information to a person (the “original recipient”), that person must not further disclose the information unless—
- (a) the disclosure is—
 - (i) for a purpose connected with any relevant function of the original recipient, or
 - (ii) otherwise for a permitted purpose, and
 - (b) the Director General consents to the disclosure.
- (2) This paragraph does not apply to a further disclosure of information if—
- (a) paragraph 7 or 8 applies, or
 - (b) the NCA officer’s disclosure to the original recipient was a disclosure—
 - (i) to the Lord Advocate for the purposes of the exercise of the functions of the Lord Advocate under Part 3 of PCA 2002, or
 - (ii) to the Scottish Ministers for the purposes of the exercise of the functions of the Scottish Ministers under, or in relation to, Part 5 of PCA 2002;
- and for provision about the further disclosure of such information, see section 441 of PCA 2002.
- (3) In this paragraph “relevant function” means any function of the original recipient for the purposes of which the information was disclosed to that recipient.

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

Information obtained under Part 6 of PCA 2002 & disclosed to Commissioners

- 7 (1) This paragraph applies to information disclosed by an NCA officer under section 7(7) to the Commissioners.
- (2) The information may be further disclosed by the Commissioners only if the disclosure is—
- (a) for a purpose connected with any relevant function of the Commissioners, or
 - (b) otherwise for a permitted purpose.
- (3) The information may be further disclosed by a person other than the Commissioners only if—
- (a) the disclosure is—
 - (i) for a purpose connected with any relevant function of the Commissioners, or
 - (ii) otherwise for a permitted purpose, and
 - (b) the Director General consents to the disclosure.
- (4) In this paragraph “relevant function” means any function of the Commissioners for the purposes of which the information was disclosed.

Information obtained under Part 6 of PCA 2002 & disclosed to Lord Advocate

- 8 Information disclosed by an NCA officer under section 7(7) to the Lord Advocate may be further disclosed only if the disclosure is—
- (a) by the Lord Advocate to the Scottish Ministers, and
 - (b) for the purpose of the exercise by the Scottish Ministers of their functions under Part 5 of PCA 2002.

PART 4

PUBLISHED INFORMATION: NO RESTRICTIONS ON FURTHER DISCLOSURE

- 9 (1) This paragraph applies where an NCA officer discloses information, in accordance with this Part of this Act, by—
- (a) the inclusion of the information in an annual plan, framework document or annual report, or
 - (b) the publication of the information in accordance with arrangements made under section 6.
- (2) None of the relevant restrictions applies to the further disclosure of that information by any person.
- (3) In this paragraph “relevant restriction” means any provision of this Part of this Act (however expressed) which prohibits or otherwise restricts the further disclosure of information disclosed by an NCA officer (including a provision which limits the purposes for which such information may be further disclosed or which requires a person’s consent to be obtained before the further disclosure).

PART 5

OFFENCES RELATING TO WRONGFUL DISCLOSURE OF INFORMATION

- 10 (1) An NCA officer commits an offence if—
- (a) the NCA officer discloses information, and
 - (b) that disclosure breaches the duty under—
 - (i) paragraph 2(1) (disclosure of HMRC information, personal customs information or personal revenue customs information), or
 - (ii) paragraph 3(1) (disclosure of social security information).
- (2) A person commits an offence if—
- (a) the person further discloses information, and
 - (b) that further disclosure breaches the duty under—
 - (i) paragraph 2(2) (further disclosure of HMRC information, personal customs information or personal revenue customs information), or
 - (ii) paragraph 3(2) (further disclosure of social security information).
- (3) It is a defence for a person charged with an offence under this paragraph to prove that the person reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information disclosed had already and lawfully been made available to the public.
- (4) A prosecution for an offence under this paragraph—
- (a) may be brought in England and Wales only with the consent of the Director of Public Prosecutions;
 - (b) may be brought in Northern Ireland only with the consent of the Director of Public Prosecutions for Northern Ireland.
- (5) This paragraph is without prejudice to the pursuit of any remedy or the taking of any action in relation to a breach of a relevant duty.
- (6) A person guilty of an offence under this paragraph is liable on conviction on indictment to either or both of the following—
- (a) imprisonment for a term not exceeding 2 years;
 - (b) a fine.
- (7) A person guilty of an offence under this paragraph is liable on summary conviction to either or both of the following—
- (a) imprisonment for a term not exceeding—
 - (i) 12 months on conviction in England and Wales;
 - (ii) 12 months on conviction in Scotland;
 - (iii) 6 months on conviction in Northern Ireland;
 - (b) a fine not exceeding the statutory maximum.
- (8) In relation to an offence committed before the commencement of section 282 of the Criminal Justice Act 2003 (increase in maximum sentence on summary conviction of offence triable either way), the reference in sub-paragraph (7)(a)(i) to the period of 12 months is to be read as a reference to the period of 6 months.

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

PART 6

GENERAL

Consents

- 11 A consent to disclosure of information under any provision of this Schedule may be given in relation to—
- (a) a particular disclosure, or
 - (b) disclosures made in circumstances specified or described in the consent.

Interpretation

- 12 In this Schedule—
- “Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
 - “PCA 2002” means the Proceeds of Crime Act 2002.