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SCHEDULES

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 **[**[F1]or dignity**]**,

are exempt from the subject information provisions.

Textual Amendments

F1 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)**

Crown employment and Crown or Ministerial appointments

[F2]4 (1) The **[**[F3] 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 **[**[F4]Northern Ireland authority**]**.

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[[F5](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

F2 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.**

F3 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)**

F4 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.**

F5 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)

C1 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

I1 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

(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 **[**[F6]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

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(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 **[**[F7]section C of Annex I to **[**[F8]Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004**]|[**[F8]Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014**]** on markets in financial instruments**]**[F9]. . . ;

"price" includes value;

"relevant person" means—

(a) **[**[F10]any person who, by reason of any permission he has under **[**[F11]Part 4A**]** 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.

Textual Amendments

F6 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)}

F7 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**

F8 Words in Sch. 7 para. 6(3) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes, 3.1.2018 in so far as not already in force) by The Financial Services and

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Markets Act 2000 (Markets in Financial Instruments) Regulations 2017 (S.I. 2017/701), reg. 1(2)(3)(4), **Sch. 4 para. 4** (with reg. 7)

F9 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)**

F10 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)**

F11 Words in Sch. 7 para. 6(3) substituted (1.4.2013) by Financial Services Act 2012 (c. 21), s. 122(3), **Sch. 18 para. 86** (with Sch. 20); S.I. 2013/423, art. 3, Sch.

Commencement Information

I2 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.

(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.

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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 **[**[F12]or, in Scotland, to confidentiality of communications**]** could be maintained in legal proceedings.

Textual Amendments

F12 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 **[**[F13], other than an offence under this Act or an offence within sub-paragraph (1A),**]** expose him to proceedings for that offence.

[[F14](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

F13 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

F14 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

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