



Education and Skills Act 2008

2008 CHAPTER 25

PART 3

[^{F1}ASSESSMENTS OF EFFECTIVENESS OF EDUCATION AND TRAINING ETC]

F1 ...

Textual Amendments

F1 S. 87 crossheading omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015](#) (c. 26), ss. **78(4)(b)**, 164(3)(f)

87 Benefit and training information

- (1) Information within subsection (2) or (3) may be—
- (a) used in connection with the exercise of an assessment function of the Secretary of State or a devolved authority, or
 - (b) disclosed to a person for use in connection with the exercise of an assessment function of the Secretary of State or a devolved authority.
- (2) Information is within this subsection if—
- (a) it is about an individual ^{F2} ..., and
 - (b) it is held by the Secretary of State for the purposes of any function of the Secretary of State relating to social security.
- (3) Information is within this subsection if—
- (a) it is about an individual ^{F3} ...,
 - (b) it is held by the Secretary of State or a devolved authority, and
 - (c) it relates to any training or course of education undertaken by the individual ^{F4}

Changes to legislation: Education and Skills Act 2008, Cross Heading: ... is up to date with all changes known to be in force on or before 11 April 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) View outstanding changes

- (4) For the purposes of this section and sections 88 to 90, “assessment function” means any of the following functions—
- (a) evaluating the effectiveness of training or education ^{F5}...;
 - (b) assessing policy in relation to the provision of ^{F6}... training or education;
 - (c) assessing policy in relation to social security or employment as it affects the provision of or participation in ^{F7}... training or education.

Textual Amendments

- F2** Words in s. 87(2)(a) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 78(2)(a)**, 164(3)(f)
- F3** Words in s. 87(3)(a) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 78(2)(a)**, 164(3)(f)
- F4** Words in s. 87(3)(c) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 78(2)(b)**, 164(3)(f)
- F5** Words in s. 87(4)(a) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 78(2)(c)**, 164(3)(f)
- F6** Word in s. 87(4)(b) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 78(2)(d)**, 164(3)(f)
- F7** Word in s. 87(4)(c) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015 \(c. 26\)](#), **ss. 78(2)(d)**, 164(3)(f)

Commencement Information

- I1** S. 87 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(c)**

88 Revenue and Customs information

- (1) The Commissioners for Her Majesty's Revenue and Customs may disclose information relating to income tax or tax credits to a person for use in connection with the exercise of an assessment function of the Secretary of State or a devolved authority.
- (2) The reference in subsection (1) to the Commissioners for Her Majesty's Revenue and Customs includes a reference to a person authorised by the Commissioners.

Commencement Information

- I2** S. 88 in force at 26.1.2009 by [S.I. 2008/3077](#), **art. 4(c)**

89 Use of information

- (1) Information disclosed to a person in reliance on section 87(1)(b) or 88 may be used by that person only in connection with the exercise of an assessment function of the Secretary of State or a devolved authority.
- (2) Subsection (3) applies where information about an individual is used in connection with the exercise of an assessment function of the Secretary of State or a devolved authority—
 - (a) in reliance on section 87(1)(a), or
 - (b) under subsection (1) above.

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- (3) So far as is reasonably practicable, the information must not be used in such a way that the identity of the individual is disclosed to, or capable of being discovered by, a person carrying out an evaluation or assessment of a kind mentioned in section 87(4)(a) to (c).

Commencement Information

I3 S. 89 in force at 26.1.2009 by S.I. 2008/3077, art. 4(c)

90 Wrongful onward disclosure of information

- (1) This section applies to information—
- (a) used in reliance on section 87(1)(a), or
 - (b) disclosed in reliance on section 87(1)(b) or 88.
- (2) A person commits an offence if—
- (a) the person discloses the information to another otherwise than in connection with the exercise of an assessment function of the Secretary of State or a devolved authority, and
 - (b) the information relates to a person whose identity is specified in or can be deduced from the disclosure.
- (3) It is a defence to prove that a person charged with the offence reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (4) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both;
 - (b) on summary conviction, to imprisonment for a term not exceeding [^{F8}the general limit in a magistrates' court] or to a fine not exceeding the statutory maximum or to both.
- (5) A prosecution for an offence under this section may be instituted in England and Wales only with the consent of the Director of Public Prosecutions.
- (6) In subsection (4)(b), the reference to [^{F9}the general limit in a magistrates' court] is to be read as a reference to 6 months in relation to an offence committed in England and Wales before [^{F10}2 May 2022].

Textual Amendments

- F8** Words in s. 90(4)(b) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**
- F9** Words in s. 90(6) substituted (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**
- F10** Words in s. 90(6) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), **Sch. Pt. 1**

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Commencement Information

I4 S. 90 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(c\)](#)

91 Information: supplementary

- (1) This section applies for the purposes of sections 87 to 90.
- (2) Nothing in these sections affects the use or disclosure of information by virtue of—
 - (a) section 3 of the Social Security Act 1998 (c. 14);
 - (b) any other enactment or rule of law.
- (3) These are the devolved authorities—
 - (a) the Scottish Ministers;
 - (b) the Welsh Ministers.
- (4) A reference to the Secretary of State includes a reference to a person providing services to the Secretary of State.
- (5) A reference to a devolved authority includes a reference to a person providing services to the authority.

^{F11}(6)

Textual Amendments

F11 S. 91(6) omitted (26.5.2015) by virtue of [Small Business, Enterprise and Employment Act 2015](#) (c. 26), [ss. 78\(3\)](#), [164\(3\)\(f\)](#)

Commencement Information

I5 S. 91 in force at 26.1.2009 by [S.I. 2008/3077](#), [art. 4\(c\)](#)

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 91(3)(c) inserted by [2022 asc 1 Sch. 4 para. 22\(3\)](#)