



Criminal Justice and Immigration Act 2008

2008 CHAPTER 4

PART 4

OTHER CRIMINAL JUSTICE PROVISIONS

Criminal legal aid

57 Disclosure of information to enable assessment of financial eligibility

- (1) The Access to Justice Act 1999 (c. 22) is amended as follows.
- (2) In section 25(9) (orders, regulations and directions subject to affirmative resolution procedure), for “or 4” substitute “4 or 6”.
- (3) In Schedule 3 (criminal defence service: right to representation), after paragraph 5 insert—

“Information requests

- 6 (1) The relevant authority may make an information request to—
 - (a) the Secretary of State, or
 - (b) the Commissioners,for the purpose of facilitating the making of a decision by the authority about the application of paragraph 3B(1) or (2), or regulations under paragraph 3B(3), in relation to an individual.
- (2) An information request made to the Secretary of State is a request for the disclosure of some or all of the following information—
 - (a) the individual’s full name;
 - (b) the individual’s address;
 - (c) the individual’s date of birth;

Status: This is the original version (as it was originally enacted).

- (d) the individual's national insurance number;
 - (e) the individual's benefit status;
 - (f) information of any description specified in regulations.
- (3) An information request made to the Commissioners is a request for the disclosure of some or all of the following information—
- (a) whether or not the individual is employed;
 - (b) the name and address of the employer (if the individual is employed);
 - (c) the individual's national insurance number;
 - (d) information of any description specified in regulations made with the agreement of the Commissioners.
- (4) The information that may be specified under subsection (3)(d) includes, in particular, information relating to the individual's income (as defined in the regulations) for a period so specified.
- (5) On receiving an information request, the Secretary of State or (as the case may be) the Commissioners may disclose the information requested to the relevant authority.

Restrictions on disclosure

- 7 (1) A person to whom information is disclosed under paragraph 6(5), or this sub-paragraph, may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating the making of a decision by the relevant authority about the application of paragraph 3B(1) or (2), or regulations under paragraph 3B(3), in relation to an individual.
- (2) A person to whom such information is disclosed commits an offence if the person—
- (a) discloses or uses the information, and
 - (b) the disclosure is not authorised by sub-paragraph (1) or (as the case may be) the use is not for the purpose of facilitating the making of such a decision as is mentioned in that sub-paragraph.
- (3) But it is not an offence under sub-paragraph (2)—
- (a) to disclose any information in accordance with any enactment or order of a court or for the purposes of any proceedings before a court; or
 - (b) to disclose any information which has previously been lawfully disclosed to the public.
- (4) It is a defence for a person charged with an offence under sub-paragraph (2) to prove that the person reasonably believed that the disclosure or use was lawful.
- (5) A person guilty of an offence under sub-paragraph (2) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine or both;

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

- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum or both.
- (6) In sub-paragraph (5)(b) the reference to 12 months is to be read as a reference to 6 months in relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003.
- (7) Nothing in section 20 applies in relation to the disclosure of information to which sub-paragraph (1) applies.

Paragraphs 6 and 7: supplementary

- 8 (1) This paragraph applies for the purposes of paragraphs 6 and 7.
- (2) “Benefit status”, in relation to an individual, means whether or not the individual is in direct or indirect receipt of any prescribed benefit or benefits and, if so (in the case of each benefit)—
 - (a) which benefit the individual is so receiving, and
 - (b) (in prescribed cases) the amount the individual is so receiving by way of the benefit.
- (3) “The Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs.
- (4) “Information” means information held in any form.
- (5) Nothing in paragraph 6 or 7 authorises the making of a disclosure which contravenes the Data Protection Act 1998.”