



# Digital Economy Act 2017

## 2017 CHAPTER 30

### PART 5

#### DIGITAL GOVERNMENT

### CHAPTER 1

#### PUBLIC SERVICE DELIVERY

#### **35 Disclosure of information to improve public service delivery**

- (1) A specified person may disclose information held by the person in connection with any of the person's functions to another specified person for the purposes of an objective which is a specified objective in relation to each of those persons.
- (2) In this section “specified person” means a person specified, or of a description specified, in Schedule 4.
- (3) The appropriate national authority may by regulations amend Schedule 4 so as to add, remove or modify an entry relating to a person or description of person.
- (4) Regulations under subsection (3) may add an entry relating to a person or a description of person to Schedule 4 only if—
  - (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
  - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (5) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.

*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

- (6) In determining whether to make regulations under subsection (3) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
  - (b) in the case of regulations which remove a person from Schedule 4 whether that person, or any person providing services to that person, has had regard to the code of practice under section 43 as required by that section.
- (7) In this section “specified objective”, in relation to a specified person, means an objective specified in relation to that specified person in regulations made by the appropriate national authority.
- (8) An objective may be specified by regulations under subsection (7) only if it complies with the following conditions.
- (9) The first condition is that the objective has as its purpose—
- (a) the improvement or targeting of a public service provided to individuals or households, or
  - (b) the facilitation of the provision of a benefit (whether or not financial) to individuals or households.
- (10) The second condition is that the objective has as its purpose the improvement of the well-being of individuals or households.
- (11) The reference in subsection (10) to the well-being of individuals or households includes—
- (a) their physical and mental health and emotional well-being,
  - (b) the contribution made by them to society, and
  - (c) their social and economic well-being.
- (12) The third condition is that the objective has as its purpose the supporting of—
- (a) the delivery of a specified person's functions, or
  - (b) the administration, monitoring or enforcement of a specified person's functions.

#### Commencement Information

- I1** S. 35 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), **reg. 3(c)**
- I2** S. 35 in force at 9.3.2018 for specified purposes by [S.I. 2018/342](#), **reg. 2(a)**
- I3** S. 35 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), **reg. 3(1)(a)**
- I4** S. 35 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), **reg. 3(a)**

## 36 Disclosure of information to gas and electricity suppliers etc

- (1) If the first and second conditions are met, a specified person may disclose information held by the person in connection with any of the person's functions to—
- (a) a licensed gas supplier, or
  - (b) a licensed electricity supplier.
- (2) The first condition is that the disclosure is for the purpose of assisting people living in fuel poverty by—

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- (a) reducing their energy costs,
  - (b) improving efficiency in their use of energy, or
  - (c) improving their health or financial well-being.
- (3) The second condition is that the information is disclosed with the intention that it will be used by the recipient of the information in connection with—
- (a) a support scheme under Part 2 of the Energy Act 2010 (schemes for reducing fuel poverty),
  - (b) in the case of a disclosure to a licensed gas supplier, an obligation imposed by an order under section 33BC or 33BD of the Gas Act 1986 (powers to impose obligations on gas suppliers etc),
  - (c) in the case of a disclosure to a licensed electricity supplier, an obligation imposed by an order under section 41A or 41B of the Electricity Act 1989 (powers to impose obligations on electricity suppliers etc), or
  - (d) the making of grants (by any person) under section 15 of the Social Security Act 1990 in accordance with regulations under that section made by the Scottish Ministers or the Welsh Ministers.
- (4) In this section and section 37 “specified person” means a person specified, or of a description specified, in Schedule 5.
- (5) The appropriate national authority may by regulations—
- (a) amend Schedule 5 so as to add, remove or modify an entry relating to a person or description of person;
  - (b) amend subsection (1) so as to add or remove a person or description of person to whom information may be disclosed;
  - (c) amend subsection (3) so as to add, modify or remove a reference to a fuel poverty measure.
- (6) Regulations under subsection (5)(a) may add an entry relating to a person or a description of person to Schedule 5 only if—
- (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
  - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (7) Regulations under subsection (5)(b) may add a person or a description of person to subsection (1) only if the person or (as the case may be) each person of that description—
- (a) provides assistance of a kind mentioned in subsection (2) to people living in fuel poverty,
  - (b) monitors or enforces the provision of such assistance to such people,
  - (c) administers a fuel poverty measure, or
  - (d) provides services to a person within paragraph (a), (b) or (c).
- (8) In determining whether to make regulations under subsection (5)(a) or (b) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
  - (b) in the case of regulations which remove a person from Schedule 5 or subsection (1), whether that person, or any person providing services to that

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person, has had regard to the code of practice under section 43 as required by that section.

- (9) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (10) For the purposes of this Chapter a person lives in fuel poverty if the person is a member of a household living on a lower income in a home which cannot be kept warm at a reasonable cost.
- (11) In this section—
- “fuel poverty measure” means—
- (a) a scheme, arrangement or set of arrangements, or
  - (b) a function or set of functions,
- which has as its purpose (or one of its purposes) the provision of assistance of a kind mentioned in subsection (2) to people living in fuel poverty;
- “licensed gas supplier” means the holder of a licence under section 7A(1) of the Gas Act 1986;
- “licensed electricity supplier” means the holder of a licence under section 6(1)(d) of the Electricity Act 1989.

#### Commencement Information

- I5** S. 36 in force at 1.10.2017 for specified purposes by [S.I. 2017/765](#), [reg. 3\(d\)](#)
- I6** S. 36 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(b\)](#)

### 37 Disclosure of information by gas and electricity suppliers etc

- (1) If the condition in subsection (2) is met, a person to whom information may be disclosed under section 36 may disclose information held by that person to a specified person.
- (2) That condition is that the disclosure is for the purpose of assisting people living in fuel poverty in England and Wales or Scotland by—
- (a) reducing their energy costs,
  - (b) improving efficiency in their use of energy, or
  - (c) improving their health or financial well-being.

#### Commencement Information

- I7** S. 37 in force at 1.5.2018 by [S.I. 2018/382](#), [reg. 3\(c\)](#)

### 38 Disclosure of information to water and sewerage undertakers etc

- (1) If the first and second conditions are met, a specified person may disclose information held by the person in connection with any of the person's functions to—
- (a) a water or sewerage undertaker for an area which is wholly or mainly in England, or
  - (b) a water or sewerage undertaker for an area which is wholly or mainly in Wales.

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- (2) The first condition is that the disclosure is for the purpose of assisting people living in water poverty by—
  - (a) reducing their water or sewerage costs,
  - (b) improving efficiency in their use of water, or
  - (c) improving their health or financial well-being.
- (3) The second condition is that the information is disclosed with the intention that it will be used by the undertaker in connection with provision in the undertaker's charges scheme under section 143 of the Water Industry Act 1991 which is included in that scheme—
  - (a) in compliance with regulations under section 143A of that Act which impose requirements within subsection (2)(d) of that section (power for regulations to require charges schemes to make special provision for particular classes of individual), or
  - (b) by virtue of section 44 of the Flood and Water Management Act 2010 (social tariffs).
- (4) In this section and section 39 “specified person” means a person specified, or of a description specified, in Schedule 6.
- (5) The appropriate national authority may by regulations—
  - (a) amend Schedule 6 so as to add, remove or modify an entry relating to a person or description of person;
  - (b) amend subsection (1) so as to add or remove a person or description of person to whom information may be disclosed;
  - (c) amend subsection (3) so as to add, modify or remove a reference to a water poverty measure.
- (6) Regulations under subsection (5)(a) may add an entry relating to a person or a description of person to Schedule 6 only if—
  - (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
  - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (7) Regulations under subsection (5)(b) may add a person or a description of person to subsection (1) only if the person or (as the case may be) each person of that description—
  - (a) provides assistance of a kind mentioned in subsection (2) to people living in water poverty,
  - (b) monitors or enforces the provision of such assistance to such people,
  - (c) administers a water poverty measure, or
  - (d) provides services to a person within paragraph (a), (b) or (c).
- (8) In determining whether to make regulations under subsection (5)(a) or (b) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
  - (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
  - (b) in the case of regulations which remove a person from Schedule 6 or subsection (1), whether that person, or any person providing services to that

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person, has had regard to the code of practice under section 43 as required by that section.

- (9) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (10) For the purposes of this Chapter a person lives in water poverty if the person is a member of a household living on a lower income in a home which—
- (a) cannot be supplied with water at a reasonable cost, or
  - (b) cannot be supplied with sewerage services at a reasonable cost.
- (11) In this section “water poverty measure” means—
- (a) a scheme, arrangement or set of arrangements, or
  - (b) a function or set of functions,
- which has as its purpose (or one of its purposes) the provision of assistance of a kind mentioned in subsection (2) to people living in water poverty.

#### Commencement Information

- I8** S. 38 in force at 9.3.2018 for specified purposes by [S.I. 2018/342, reg. 2\(b\)](#)
- I9** S. 38 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(b\)](#)
- I10** S. 38 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(d\)](#)

### 39 Disclosure of information by water and sewerage undertakers etc

- (1) If the condition in subsection (2) is met, a person to whom information may be disclosed under section 38 may disclose information held by that person to a specified person.
- (2) That condition is that the disclosure is for the purpose of assisting people living in water poverty in England and Wales by—
- (a) reducing their water or sewerage costs,
  - (b) improving efficiency in their use of water, or
  - (c) improving their health or financial well-being.

#### Commencement Information

- I11** S. 39 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(c\)](#)
- I12** S. 39 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(e\)](#)

### 40 Further provisions about disclosures under any of sections 35 to 39

- (1) Personal information disclosed under any of sections 35 to 39 may only be used by the person to whom it is disclosed for the purposes for which it was disclosed, subject to subsection (2).
- (2) Subsection (1) does not prevent the use of information by a person—
- (a) if the information has already lawfully been made available to the public,
  - (b) if the person to whom the information relates consents to its use for another purpose,

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- (c) for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (d) for the purposes of a criminal investigation,
  - (e) for the purposes of legal proceedings (whether civil or criminal), or
  - (f) for the purposes of—
    - (i) preventing serious physical harm to a person,
    - (ii) preventing loss of human life,
    - (iii) safeguarding vulnerable adults or children,
    - (iv) responding to an emergency, or
    - (v) protecting national security.
- (3) In subsection (2)(c) “anti-social behaviour” means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) Subsection (2) does not apply to information disclosed to a person under section 35, 36 or 38 by the Revenue and Customs; but such information may be used by that person for purposes other than those for which it was disclosed with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (5) For the purposes of this Chapter information is “personal information” if—
- (a) it relates to and identifies a particular person (including a body corporate), but
  - (b) it is not information about the internal administrative arrangements of a specified person or a person to whom information may be disclosed under section 36 or 38.
- (6) For the purposes of subsection (5) information identifies a particular person if the identity of that person—
- (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (7) A disclosure under any of sections 35 to 39 does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (8) But nothing in sections 35 to 39 authorises the making of a disclosure which—
- (a) contravenes the Data Protection Act 1998, or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (9) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part.
- (10) Sections 35 to 39 do not limit the circumstances in which information may be disclosed apart from those sections.

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#### Commencement Information

**I13** S. 40 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(d\)](#)

**I14** S. 40 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382, reg. 3\(f\)](#)

## 41 Confidentiality of personal information

- (1) Personal information disclosed under any of sections 35 to 39 and received by a person (“P”) may not be disclosed—
  - (a) by P, or
  - (b) by any other person who has received it directly or indirectly from P.
- (2) Subsection (1) does not apply to a disclosure—
  - (a) which is required or permitted by any enactment (including any of sections 35 to 39),
  - (b) which is required by an EU obligation,
  - (c) which is made in pursuance of an order of the court,
  - (d) of information which has already lawfully been made available to the public,
  - (e) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (f) which is made for the purposes of a criminal investigation,
  - (g) which is made for the purposes of legal proceedings (whether civil or criminal),
  - (h) which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
  - (i) consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,
  - (j) which is made with the consent of the person to whom it relates, or
  - (k) which is made for the purposes of—
    - (i) preventing serious physical harm to a person,
    - (ii) preventing loss of human life,
    - (iii) safeguarding vulnerable adults or children,
    - (iv) responding to an emergency, or
    - (v) protecting national security.
- (3) In subsection (2)(e) “anti-social behaviour” means conduct that—
  - (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) A person commits an offence if—
  - (a) the person discloses personal information in contravention of subsection (1), and
  - (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.



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- (5) A person who is guilty of an offence under subsection (4) is liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (6) A person who is guilty of an offence under subsection (4) is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;
  - (b) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (7) In the application of subsection (6)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.
- (8) This section does not apply to personal information disclosed under section 35, 36 or 38 by the Revenue and Customs.

#### Commencement Information

**I15** S. 41 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(e\)](#)

**I16** S. 41 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382, reg. 3\(g\)](#)

## 42 Information disclosed by the Revenue and Customs

- (1) Personal information disclosed by the Revenue and Customs under section 35, 36 or 38 and received by a person may not be disclosed by that person.
- (2) Subsection (1) does not apply to a disclosure which is made with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) A person who contravenes subsection (1) is guilty of an offence.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (5) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (3) as they apply to an offence under that section.

#### Commencement Information

**I17** S. 42 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(f\)](#)

**I18** S. 42 in force at 1.5.2018 for E.W.S. by [S.I. 2018/382, reg. 3\(h\)](#)

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### **43 Code of practice**

- (1) The relevant Minister must issue a code of practice about—
  - (a) the disclosure of information under any of sections 35 to 39, and
  - (b) the use of information disclosed under any of those sections.
- (2) The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).
- (3) A person to whom the code applies must have regard to the code of practice—
  - (a) in disclosing information under any of sections 35 to 39, and
  - (b) in using information disclosed under any of those sections.
- (4) The relevant Minister may from time to time revise and re-issue the code of practice.
- (5) Before issuing or reissuing the code of practice the relevant Minister must consult—
  - (a) the Information Commissioner,
  - (b) the Commissioners for Her Majesty's Revenue and Customs,
  - (c) the Scottish Ministers,
  - (d) the Welsh Ministers,
  - (e) the Department of Finance in Northern Ireland, and
  - (f) such other persons as the relevant Minister thinks appropriate.
- (6) The fact that this section was not in force when consultation of the kind mentioned in subsection (5) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (7) The relevant Minister may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Before reissuing the code the relevant Minister must lay a draft of the code as proposed to be reissued before Parliament.
- (9) The relevant Minister may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (10) In subsection (9) “the 40 day period” means—
  - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (11) For the purposes of subsection (10) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (12) As soon as is reasonably practicable after issuing or reissuing the code of practice the relevant Minister must lay, or arrange for the laying of, a copy of it before—
  - (a) the Scottish Parliament,
  - (b) the National Assembly for Wales, and
  - (c) the Northern Ireland Assembly.
- (13) In disclosing information under any of sections 35 to 39, a person must have regard to the following codes of practice issued by the Information Commissioner under

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section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—

- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
- (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.

(14) The duty in subsection (13) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.

#### **Commencement Information**

**I19** S. 43 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), [reg. 3\(e\)](#)

**I20** S. 43 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), [reg. 3\(1\)\(g\)](#)

## **44 Regulations under this Chapter**

- (1) Any power to make regulations under this Chapter is exercisable—
- (a) in the case of regulations made by the relevant Minister or the Welsh Ministers, by statutory instrument, and
  - (b) in the case of regulations made by the Department of Finance in Northern Ireland, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)).
- (2) Regulations under this Chapter—
- (a) may make different provision for different purposes;
  - (b) may contain consequential, supplementary, transitional or transitory provision or savings.
- (3) In the case of—
- (a) regulations under section 35(3) which amend Schedule 4 so as to add an entry relating to a person or description of person,
  - (b) regulations under section 36(5)(a) which amend Schedule 5 so as to add an entry relating to a person or description of person, or
  - (c) regulations under section 38(5)(a) which amend Schedule 6 so as to add an entry relating to a person or description of person,
- this includes power to make provision in relation to information disclosed by that person or a person of that description which is similar to that made by section 42 in relation to information disclosed by the Revenue and Customs.
- (4) Before making regulations under this Chapter the appropriate national authority must consult—
- (a) the Information Commissioner,
  - (b) the Commissioners for Her Majesty's Revenue and Customs,
  - (c) each other person who is the appropriate national authority in relation to regulations under this Chapter,
  - (d) where the appropriate national authority is not the relevant Minister, the Minister for the Cabinet Office, and
  - (e) such other persons as the appropriate national authority thinks appropriate.

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- (5) The fact that a power to make regulations under this Chapter was not in force when consultation of the kind mentioned in subsection (4) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (6) The appropriate national authority may only make regulations under section 35(7), 36(5)(c) or 38(5)(c) with the consent of the Treasury in a case where the regulations could affect the disclosure of information by the Revenue and Customs.
- (7) A statutory instrument containing regulations made under this Chapter by the relevant Minister may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Regulations made under this Chapter by the Scottish Ministers are subject to the affirmative procedure.
- (9) A statutory instrument containing regulations made under this Chapter by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (10) Regulations under this Chapter may not be made by the Department of Finance in Northern Ireland unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (11) If a draft of a statutory instrument containing regulations under section 35(3), 36(5)(a) or (b) or 38(5)(a) or (b) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

#### **Commencement Information**

- I21** S. 44 in force at 1.10.2017 for specified purposes by [S.I. 2017/765, reg. 3\(f\)](#)
- I22** S. 44 in force at 9.3.2018 for specified purposes by [S.I. 2018/342, reg. 2\(c\)](#)
- I23** S. 44 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(h\)](#)
- I24** S. 44 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382, reg. 3\(i\)](#)

## **45 Interpretation of this Chapter etc**

### (1) In this Chapter—

“the appropriate national authority” means the relevant Minister, subject to subsections (2) to (7);

“enactment” includes—

- (a) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
- (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- (d) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

“function” means function of a public nature;

“personal information” has the meaning given by section 40(5);

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“public authority” means a person who exercises functions of a public nature, subject to subsection (8);

“relevant Minister” means the Secretary of State or the Minister for the Cabinet Office;

“the Revenue and Customs” has the meaning given by section 17(3) of the Commissioners for Revenue and Customs Act 2005.

- (2) The Scottish Ministers are the appropriate national authority in relation to—
- (a) regulations under section 35(3) or 36(5)(a) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Scottish body,
  - (b) regulations under section 36(5)(b) which add or remove a person who is, or a description of persons each of whom is, a Scottish body, and
  - (c) regulations under section 35(7) or 36(5)(c) which have the effect only of enabling a Scottish body to disclose information for the purposes of an objective which does not relate to a reserved matter (within the meaning of the Scotland Act 1998).
- (3) In subsection (2) “Scottish body” means—
- (a) a person who is a part of the Scottish Administration,
  - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
  - (c) a person providing services to a person within paragraph (a) or (b).
- (4) The Welsh Ministers are the appropriate national authority in relation to—
- (a) regulations under section 35(3), 36(5)(a) or 38(5)(a) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Welsh body,
  - (b) regulations under section 36(5)(b) or 38(5)(b) which add or remove a person who is, or a description of persons each of whom is, a Welsh body, and
  - (c) regulations under section 35(7), 36(5)(c) or 38(5)(c) which have the effect only of enabling a Welsh body to disclose information for the purposes of an objective which could be specified by provision falling within the legislative competence of the National Assembly for Wales.
- (5) In subsection (4) “Welsh body” means—
- (a) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
  - (b) a person providing services to a devolved Welsh authority as defined by that section.
- (6) The Department of Finance in Northern Ireland is the appropriate national authority in relation to—
- (a) regulations under section 35(3) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Northern Ireland body, and
  - (b) regulations under section 35(7) which have the effect only of enabling a Northern Ireland body to disclose information for the purposes of an objective which relates to a transferred matter (within the meaning of the Northern Ireland Act 1998).
- (7) In subsection (6) “Northern Ireland body” means—

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- (a) a Minister within the meaning of the Northern Ireland Act 1998,
  - (b) a Northern Ireland department,
  - (c) a Northern Ireland public authority within the meaning of the Statistics and Registration Service Act 2007, or
  - (d) a person providing services to a person within paragraph (a), (b) or (c).
- (8) A person is not a public authority for the purposes of this Chapter if, apart from this subsection, the person would be a public authority for those purposes merely because the person exercises functions on behalf of another public authority.
- (9) References in this Chapter to people living in fuel poverty are to be construed in accordance with section 36(10).
- (10) References in this Chapter to people living in water poverty are to be construed in accordance with section 38(10).
- (11) The power of the Secretary of State in section 69(2) of the Wales Act 2017 to amend an enactment contained in primary legislation in consequence of any provision of that Act includes power to amend this Chapter, and section 118 so far as relating to this Chapter, in consequence of section 48 (water and sewerage) of that Act.

#### Commencement Information

**I25** S. 45 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(i\)](#)

**I26** S. 45 in force at 1.5.2018 for E.W.S. by [S.I. 2018/382, reg. 3\(j\)](#)

## CHAPTER 2

### CIVIL REGISTRATION

#### 46 Disclosure of information by civil registration officials

- (1) The Registration Service Act 1953 is amended as follows.
- (2) After section 19A insert—

##### “19AA Disclosure of information

- (1) A civil registration official may, subject to this section, disclose any information held in connection with any of the official's functions to—
  - (a) a specified public authority (see section 19AB), or
  - (b) any other civil registration official.
- (2) A civil registration official may disclose information under this section only if the official is satisfied that the authority or civil registration official to whom it is disclosed (the “recipient”) requires the information to enable the recipient to exercise one or more of the recipient's functions.
- (3) A disclosure under this section does not breach any obligation of confidence owed by the civil registration official making the disclosure.

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- (4) The power to disclose information under this section is subject to any express restriction on disclosure imposed by another enactment (ignoring any restriction which allows disclosure if authorised by an enactment).
- (5) This section does not limit the circumstances in which information may be disclosed apart from this section.
- (6) “Civil registration official” means—
  - (a) the Registrar General;
  - (b) a superintendent registrar of births, deaths and marriages;
  - (c) a registrar of births and deaths;
  - (d) a registrar of marriages;
  - (e) each of the following in its capacity as a registration authority within the meaning of Chapter 1 of Part 2 of the Civil Partnership Act 2004 (see section 28 of that Act)—
    - (i) a county council in England;
    - (ii) the council of any district in England comprised in an area for which there is no county council;
    - (iii) a London borough council;
    - (iv) the Common Council of the City of London;
    - (v) the Council of the Isles of Scilly;
    - (vi) a county council in Wales;
    - (vii) a county borough council in Wales.

#### **19AB Specified public authorities**

- (1) Each of the following public authorities is a “specified public authority” for the purposes of section 19AA—
  - (a) a Minister of the Crown;
  - (b) the Welsh Government;
  - (c) a department of the government of the United Kingdom;
  - (d) the Greater London Authority;
  - (e) a county council in England;
  - (f) a district council in England;
  - (g) a London borough council;
  - (h) the Common Council of the City of London in its capacity as a local authority;
  - (i) the Council of the Isles of Scilly;
  - (j) a county council in Wales;
  - (k) a county borough council in Wales;
  - (l) an NHS body within the meaning of the National Health Service Act 2006 (see section 275 of that Act).
- (2) The Minister may by regulations amend subsection (1) so as to add, modify or remove a reference to a public authority or description of public authority.
- (3) Regulations under this section must be made by statutory instrument.
- (4) Regulations under this section may—

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- (a) make different provision for different purposes;
  - (b) contain consequential, incidental, supplemental, transitional or transitory provision or savings.
- (5) The provision that may be made by virtue of subsection (4)(b) includes provision amending, repealing or revoking any provision of any enactment.
- (6) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (7) In this section—
- “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - “public authority” means a person who exercises functions of a public nature.

### **19AC Code of practice**

- (1) The Registrar General must issue a code of practice about the disclosure of information under section 19AA.
- (2) The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).
- (3) A civil registration official must have regard to the code of practice in disclosing information under section 19AA.
- (4) The Registrar General may from time to time revise and re-issue the code of practice.
- (5) Before issuing or revising the code of practice the Registrar General must consult—
  - (a) the Minister,
  - (b) the Information Commissioner, and
  - (c) such other persons as the Registrar General thinks fit.
- (6) The Registrar General may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Before reissuing the code the Registrar General must lay a draft of the code as proposed to be reissued before Parliament.
- (8) The Registrar General may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (9) In subsection (8) “the 40 day period” means—
  - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.



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- (10) For the purposes of subsection (9) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (11) In disclosing information under section 19AA, a civil registration official must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (12) The duty in subsection (11) does not affect any other requirement for the civil registration official to have regard to a code of practice in disclosing the information.”
- (3) In section 19B (fees in respect of provision of copies of records etc)—
- (a) after subsection (1) insert—

“(1A) The Minister may by regulations provide for fees to be payable to a civil registration official in respect of the disclosure by the official of information under section 19AA.”,
  - (b) in subsections (2) and (3), for “The regulations” substitute “Regulations under this section ”, and
  - (c) in the heading, omit “in respect of provision of copies of records etc”.
- (4) In section 21(1) (interpretation), after “respectively—” insert—

““civil registration official” has the meaning given by section 19AA;”.

#### **Commencement Information**

**I27** S. 46 in force at 31.7.2017 for specified purposes by [S.I. 2017/765](#), [reg. 2\(o\)](#)

**I28** S. 46 in force at 1.5.2018 in so far as not already in force except for the purposes of N.I. by [S.I. 2018/382](#), [reg. 3\(k\)](#)

#### **47 Consequential provision**

- (1) The Secretary of State may by regulations make the provision in subsection (2) in consequence of any provision made by section 46.
- (2) The provision mentioned in subsection (1) is provision amending, repealing or revoking any provision of any enactment passed or made before or in the same Session as this Act.
- (3) Regulations under this section must be made by statutory instrument.
- (4) Regulations under this section may—
- (a) make different provision for different purposes;
  - (b) contain transitional or transitory provision or savings.

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- (5) A statutory instrument containing regulations under this section which amend or repeal an Act may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (6) A statutory instrument containing any other regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.

#### **Commencement Information**

**I29** S. 47 in force at 31.7.2017 for specified purposes by [S.I. 2017/765](#), [reg. 2\(p\)](#)

**I30** S. 47 in force at 1.5.2018 in so far as not already in force except for the purposes of N.I. by [S.I. 2018/382](#), [reg. 3\(l\)](#)

## **CHAPTER 3**

### DEBT OWED TO THE PUBLIC SECTOR

#### **48 Disclosure of information to reduce debt owed to the public sector**

- (1) A specified person may disclose information held by the person in connection with any of the person's functions to another specified person for the purposes of the taking of action in connection with debt owed to a public authority or to the Crown.
- (2) For the purposes of this section and Schedule 7 debt is owed to a public authority or to the Crown if—
  - (a) a person is required to pay a sum of money to a public authority or to the Crown, and
  - (b) all or part of that sum remains unpaid after the date on which, or after the end of the period within which, it is required to be paid.
- (3) For the purposes of this section and Schedule 7 taking action in connection with debt owed to a public authority or to the Crown includes—
  - (a) identifying debt of that kind;
  - (b) collecting debt of that kind;
  - (c) bringing civil proceedings as a result of debt of that kind;
  - (d) taking administrative action as a result of debt of that kind.
- (4) In this Chapter “specified person” means a person specified, or of a description specified, in Schedule 7.
- (5) The appropriate national authority may by regulations amend Schedule 7 so as to add, remove or modify an entry relating to a person or description of person.
- (6) Regulations under subsection (5) may add an entry relating to a person or a description of person to Schedule 7 only if the following conditions are satisfied.
- (7) The first condition is that—
  - (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or

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- (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (8) The second condition is that the person or (as the case may be) a person of that description (“P” in either case)—
- (a) requires information from a public authority or a person providing services to a public authority to improve P's ability to identify, manage or recover debt owed to a public authority or to the Crown,
  - (b) has information which, if shared with a public authority or a person providing services to a public authority, has the potential to improve that authority's or that person's ability to identify, manage or recover such debt, or
  - (c) has functions relating to the management or recovery of such debt the exercise of which may be improved by the disclosure of information by or to P.
- (9) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (10) In determining whether to make regulations under subsection (5) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
  - (b) in the case of regulations which remove a person from Schedule 7, whether that person, or any person providing services to that person, has had regard to the code of practice under section 52 as required by that section.
- (11) Before making regulations under subsection (5) the appropriate national authority must consult—
- (a) the Information Commissioner,
  - (b) the Commissioners for Her Majesty's Revenue and Customs,
  - (c) each other person who is the appropriate national authority in relation to regulations under subsection (5),
  - (d) where the appropriate national authority is not the relevant Minister, the Minister for the Cabinet Office, and
  - (e) such other persons as the appropriate national authority thinks appropriate.
- (12) The fact that this section was not in force when consultation of the kind mentioned in subsection (11) took place is to be disregarded in determining whether there has been compliance with that subsection.

#### **Commencement Information**

**I31** S. 48 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), [reg. 3\(g\)](#)

**I32** S. 48 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(m\)](#)

#### **49 Further provisions about power in section 48**

- (1) Personal information disclosed under section 48 may only be used by the person to whom it is disclosed for the purposes for which it was disclosed, subject to subsection (2).

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- (2) Subsection (1) does not prevent the use of information by a person—
  - (a) if the information has already lawfully been made available to the public,
  - (b) if the person to whom the information relates consents to its use for another purpose,
  - (c) for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (d) for the purposes of a criminal investigation,
  - (e) for the purposes of legal proceedings (whether civil or criminal),
  - (f) for the purposes of safeguarding vulnerable adults or children, or
  - (g) for the purposes of protecting national security.
- (3) In subsection (2)(c) “anti-social behaviour” means conduct that—
  - (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) Subsection (2) does not apply to information disclosed to a person under section 48 by the Revenue and Customs; but such information may be used by that person for purposes other than those for which it was disclosed with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (5) For the purposes of this Chapter information is “personal information” if—
  - (a) it relates to and identifies a particular person (including a body corporate), but
  - (b) it is not information about the internal administrative arrangements of a specified person.
- (6) For the purposes of subsection (5) information identifies a particular person if the identity of that person—
  - (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (7) A disclosure under section 48 does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (8) But nothing in section 48 authorises the making of a disclosure which—
  - (a) contravenes the Data Protection Act 1998, or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (9) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part.
- (10) Section 48 does not limit the circumstances in which information may be disclosed apart from that section.

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### Commencement Information

**I33** S. 49 in force at 1.5.2018 for E.W.S. by [S.I. 2018/382](#), [reg. 3\(n\)](#)

## 50 Confidentiality of personal information

- (1) Personal information received by a person (“P”) under section 48 may not be disclosed—
  - (a) by P, or
  - (b) by any other person who has received it directly or indirectly from P.
- (2) Subsection (1) does not apply to a disclosure—
  - (a) which is required or permitted by any enactment (including section 48),
  - (b) which is required by an EU obligation,
  - (c) which is made in pursuance of an order of the court,
  - (d) of information which has already lawfully been made available to the public,
  - (e) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (f) which is made for the purposes of a criminal investigation,
  - (g) which is made for the purposes of legal proceedings (whether civil or criminal),
  - (h) which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
  - (i) consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,
  - (j) which is made with the consent of the person to whom it relates,
  - (k) which is made for the purposes of safeguarding vulnerable adults or children, or
  - (l) which is made for the purposes of protecting national security.
- (3) In subsection (2)(e) “anti-social behaviour” means conduct that—
  - (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) A person commits an offence if—
  - (a) the person discloses personal information in contravention of subsection (1), and
  - (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.
- (5) A person who is guilty of an offence under subsection (4) is liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (6) A person who is guilty of an offence under subsection (4) is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;

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- (b) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (7) In the application of subsection (6)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.
- (8) This section does not apply to personal information disclosed under section 48 by the Revenue and Customs.

#### **Commencement Information**

**I34** S. 50 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(o)

## **51 Information disclosed by the Revenue and Customs**

- (1) Personal information disclosed by the Revenue and Customs under section 48 and received by a person may not be disclosed by that person.
- (2) Subsection (1) does not apply to a disclosure which is made with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) A person who contravenes subsection (1) is guilty of an offence.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (5) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (3) as they apply to an offence under that section.

#### **Commencement Information**

**I35** S. 51 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(p)

## **52 Code of practice**

- (1) The relevant Minister must issue a code of practice about—
  - (a) the disclosure of information under section 48, and
  - (b) the use of information disclosed under that section.
- (2) The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).
- (3) A specified person must have regard to the code of practice in—

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- (a) disclosing information under section 48, and
  - (b) using information disclosed under that section.
- (4) The relevant Minister may from time to time revise and re-issue the code of practice.
- (5) Before issuing or reissuing the code of practice the relevant Minister must consult—
  - (a) the Information Commissioner,
  - (b) the Commissioners for Her Majesty's Revenue and Customs,
  - (c) the Scottish Ministers,
  - (d) the Welsh Ministers,
  - (e) the Department of Finance in Northern Ireland, and
  - (f) such other persons as the relevant Minister thinks appropriate.
- (6) The fact that this section was not in force when consultation of the kind mentioned in subsection (5) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (7) The relevant Minister may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Before reissuing the code the relevant Minister must lay a draft of the code as proposed to be reissued before Parliament.
- (9) The relevant Minister may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (10) In subsection (9) “the 40 day period” means—
  - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (11) For the purposes of subsection (10) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (12) As soon as is reasonably practicable after issuing or reissuing the code of practice the relevant Minister must lay, or arrange for the laying of, a copy of it before—
  - (a) the Scottish Parliament,
  - (b) the National Assembly for Wales, and
  - (c) the Northern Ireland Assembly.
- (13) In disclosing information under section 48, a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—
  - (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (14) The duty in subsection (13) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.

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#### **Commencement Information**

**I36** S. 52 in force at 1.10.2017 for E.W.S. by [S.I. 2017/765](#), **reg. 3(h)**

### **53 Duty to review operation of Chapter**

- (1) As soon as is reasonably practicable after the end of three years beginning with the day on which this Chapter comes into force, the relevant Minister must review its operation for the purposes of deciding whether it should be amended or repealed.
- (2) Before carrying out the review the relevant Minister must publish the criteria by reference to which that determination will be made.
- (3) In carrying out the review the relevant Minister must consult—
  - (a) the Information Commissioner,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers,
  - (d) the Department of Finance in Northern Ireland, and
  - (e) such other persons as the relevant Minister thinks appropriate.
- (4) Once the review is completed the relevant Minister must—
  - (a) publish a report on its outcome, and
  - (b) lay, or arrange for the laying of, a copy of the report before—
    - (i) Parliament,
    - (ii) the Scottish Parliament,
    - (iii) the National Assembly for Wales, and
    - (iv) the Northern Ireland Assembly.
- (5) If as a result of the review the relevant Minister decides that this Chapter should be amended or repealed, the relevant Minister may by regulations amend or repeal it (as the case may be).
- (6) The power in subsection (5) to amend this Chapter—
  - (a) may be exercised for the purposes only of improving the effectiveness of the operation of the power in section 48(1), and
  - (b) may not be used to remove any of the safeguards relating to the use or disclosure of information in section 49, 50 or 51.
- (7) The relevant Minister may only make regulations under subsection (5) with the consent of the Scottish Ministers if the regulations—
  - (a) repeal this Chapter,
  - (b) amend or remove the power of the Scottish Ministers to make regulations under section 48(5),
  - (c) affect the disclosure of information under section 48 by a Scottish body to another such body,
  - (d) affect the use by a Scottish body of information disclosed under that section by such a body, or
  - (e) affect the further disclosure to a Scottish body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Scottish body.



*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

- (8) The relevant Minister may only make regulations under subsection (5) with the consent of the Welsh Ministers if the regulations—
- (a) repeal this Chapter,
  - (b) amend or remove the power of the Welsh Ministers to make regulations under section 48(5),
  - (c) affect the disclosure of information under section 48 by a Welsh body to another such body,
  - (d) affect the use by a Welsh body of information disclosed under that section by such a body, or
  - (e) affect the further disclosure to a Welsh body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Welsh body.
- (9) The relevant Minister may only make regulations under subsection (5) with the consent of the Department of Finance in Northern Ireland if the regulations—
- (a) repeal this Chapter,
  - (b) amend or remove the power of the Department to make regulations under section 48(5),
  - (c) affect the disclosure of information under section 48 by a Northern Ireland body to another such body,
  - (d) affect the use by a Northern Ireland body of information disclosed under that section by such a body, or
  - (e) affect the further disclosure to a Northern Ireland body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Northern Ireland body.
- (10) The relevant Minister may only make regulations under subsection (5) with the consent of the Treasury in a case where the regulations could affect the disclosure of information by the Revenue and Customs.
- (11) Anything required to be published by this section is to be published in such manner as the relevant Minister thinks fit.

#### **Commencement Information**

**I37** S. 53 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(q)

## **54 Regulations under this Chapter**

- (1) Any power to make regulations under this Chapter is exercisable—
- (a) in the case of regulations made by the relevant Minister or the Welsh Ministers, by statutory instrument, and
  - (b) in the case of regulations made by the Department of Finance in Northern Ireland, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)).
- (2) Regulations under this Chapter—
- (a) may make different provision for different purposes;
  - (b) may contain consequential, supplementary, transitional or transitory provision or savings.

*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

- (3) In the case of regulations under section 48(5) which amend Schedule 7 so as to add an entry relating to a person or description of person, this includes power to make provision in relation to information disclosed by that person or a person of that description which is similar to that made by section 51 in relation to information disclosed by the Revenue and Customs.
- (4) A statutory instrument containing regulations made under this Chapter by the relevant Minister may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Regulations made under section 48(5) by the Scottish Ministers are subject to the affirmative procedure.
- (6) A statutory instrument containing regulations made under section 48(5) by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (7) Regulations under section 48(5) may not be made by the Department of Finance in Northern Ireland unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (8) If a draft of a statutory instrument containing regulations under section 48(5) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

#### **Commencement Information**

**I38** S. 54 in force at 1.10.2017 for specified purposes by [S.I. 2017/765](#), [reg. 3\(i\)](#)

**I39** S. 54 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(r\)](#)

## **55 Interpretation of this Chapter**

(1) In this Chapter—

“the appropriate national authority” means the relevant Minister, subject to subsections (2) to (4);

“enactment” includes—

- (a) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
- (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- (d) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

“functions” means functions of a public nature;

“Northern Ireland body” means—

- (a) a Minister within the meaning of the Northern Ireland Act 1998,
- (b) a Northern Ireland department,
- (c) a Northern Ireland public authority within the meaning of the Statistics and Registration Service Act 2007, or

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- (d) a person providing services to a person within paragraph (a), (b) or (c);  
“personal information” has the meaning given by section 49(5);  
“public authority” means—
- (a) a person or body exercising functions of a public nature in the United Kingdom,
  - (b) a person or body entirely or substantially funded from public money,
  - (c) an office-holder appointed by a person or body falling within paragraph (a), or
  - (d) a body more than half of whose governing body or members are appointed by a person or body falling within paragraph (a);
- “relevant Minister” means the Secretary of State or the Minister for the Cabinet Office;
- “the Revenue and Customs” has the meaning given by section 17(3) of the Commissioners for Revenue and Customs Act 2005;
- “Scottish body” means—
- (a) a person who is a part of the Scottish Administration,
  - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
  - (c) a person providing services to a person within paragraph (a) or (b);
- “specified person” has the meaning given by section 48(4);
- “Welsh body” means—
- (a) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
  - (b) a person providing services to a devolved Welsh authority as defined by that section.
- (2) The Scottish Ministers are the appropriate national authority in relation to regulations under section 48(5) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Scottish body.
- (3) The Welsh Ministers are the appropriate national authority in relation to regulations under section 48(5) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Welsh body.
- (4) The Department of Finance in Northern Ireland is the appropriate national authority in relation to regulations under section 48(5) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Northern Ireland body.

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**Commencement Information**

**I40** S. 55 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(s)

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*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

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## CHAPTER 4

### FRAUD AGAINST THE PUBLIC SECTOR

#### 56 Disclosure of information to combat fraud against the public sector

- (1) A specified person may disclose information held by the person in connection with any of the person's functions to another specified person for the purposes of the taking of action in connection with fraud against a public authority.
- (2) In this section and in Schedule 8 “fraud against a public authority” means a fraud offence which involves—
  - (a) loss to a public authority, or
  - (b) the exposure of a public authority to a risk of loss.
- (3) In subsection (2)—
  - (a) “fraud offence” means an offence under section 1 of the Fraud Act 2006 or, in relation to Scotland, an offence of fraud, and
  - (b) “loss”, as it applies in relation to an offence under section 1 of the Fraud Act 2006, has the meaning given by section 5 of that Act.
- (4) For the purposes of this section and Schedule 8 taking action in connection with fraud against a public authority includes any of the following—
  - (a) preventing fraud of that kind;
  - (b) detecting fraud of that kind;
  - (c) investigating fraud of that kind;
  - (d) prosecuting fraud of that kind;
  - (e) bringing civil proceedings as a result of fraud of that kind;
  - (f) taking administrative action as a result of fraud of that kind.
- (5) In this Chapter “specified person” means a person specified, or of a description specified, in Schedule 8.
- (6) The appropriate national authority may by regulations amend Schedule 8 so as to add, remove or modify an entry relating to a person or description of person.
- (7) Regulations under subsection (6) may add an entry relating to a person or a description of person to Schedule 8 only if the following conditions are satisfied.
- (8) The first condition is that—
  - (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
  - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (9) The second condition is that the person or (as the case may be) a person of that description (“P” in either case)—
  - (a) requires information from a public authority or a person providing services to a public authority to improve P's ability to identify or reduce the risk of fraud against P or a public authority to which P provides services,
  - (b) has information which, if shared with a public authority or a person providing services to a public authority, has the potential to improve that authority's or

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*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

- that person's ability to identify or reduce the risk of fraud against that authority, or
- (c) has functions of taking action in connection with fraud against a public authority, the exercise of which may be improved by the disclosure of information by or to P.
- (10) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (11) In determining whether to make regulations under subsection (6) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
- (b) in the case of regulations which remove a person from Schedule 8, whether that person, or any person providing services to that person, has had regard to the code of practice under section 60 as required by that section.
- (12) Before making regulations under subsection (6) the appropriate national authority must consult—
- (a) the Information Commissioner,
- (b) the Commissioners for Her Majesty's Revenue and Customs,
- (c) each other person who is the appropriate national authority in relation to regulations under subsection (6),
- (d) where the appropriate national authority is not the relevant Minister, the Minister for the Cabinet Office, and
- (e) such other persons as the appropriate national authority thinks appropriate.
- (13) The fact this section was not in force when consultation of the kind mentioned in subsection (12) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (14) In this Chapter “public authority” means—
- (a) a person or body exercising functions of a public nature in the United Kingdom,
- (b) a person or body entirely or substantially funded from public money,
- (c) an office-holder appointed by a person or body falling within paragraph (a), or
- (d) a body more than half of whose governing body or members are appointed by a person or body falling within paragraph (a).

#### **Commencement Information**

**I41** S. 56 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), [reg. 3\(j\)](#)

**I42** S. 56 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(t\)](#)

## **57 Further provisions about power in section 56**

- (1) Personal information disclosed under section 56 may only be used by the person to whom it is disclosed for the purposes for which it was disclosed, subject to subsection (2).

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*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

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- (2) Subsection (1) does not prevent the use of information by a person—
- (a) if the information has already lawfully been made available to the public,
  - (b) if the person to whom the information relates consents to its use for another purpose,
  - (c) for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (d) for the purposes of a criminal investigation,
  - (e) for the purposes of legal proceedings (whether civil or criminal), or
  - (f) for the purposes of—
    - (i) preventing serious physical harm to a person,
    - (ii) preventing loss of human life,
    - (iii) safeguarding vulnerable adults or children,
    - (iv) responding to an emergency, or
    - (v) protecting national security.
- (3) In subsection (2)(c) “anti-social behaviour” means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) Subsection (2) does not apply to information disclosed to a person under section 56 by the Revenue and Customs; but such information may be used by that person for purposes other than those for which it was disclosed with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (5) For the purposes of this Chapter information is “personal information” if—
- (a) it relates to and identifies a particular person (including a body corporate), but
  - (b) it is not information about the internal administrative arrangements of a specified person.
- (6) For the purposes of subsection (1) information identifies a particular person if the identity of that person—
- (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (7) A disclosure under section 56 does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (8) But nothing in section 56 authorises the making of a disclosure which—
- (a) contravenes the Data Protection Act 1998, or
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (9) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part.

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- (10) Section 56 does not limit the circumstances in which information may be disclosed apart from that section.

#### **Commencement Information**

**I43** S. 57 in force at 1.5.2018 for E.W.S. by [S.I. 2018/382](#), [reg. 3\(u\)](#)

## **58 Confidentiality of personal information**

- (1) Personal information received by a person (“P”) under section 56 may not be disclosed—
- (a) by P, or
  - (b) by any other person who has received it directly or indirectly from P.
- (2) Subsection (1) does not apply to a disclosure—
- (a) which is required or permitted by any enactment (including section 56),
  - (b) which is required by an EU obligation,
  - (c) which is made in pursuance of an order of the court,
  - (d) of information which has already lawfully been made available to the public,
  - (e) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (f) which is made for the purposes of a criminal investigation,
  - (g) which is made for the purposes of legal proceedings (whether civil or criminal),
  - (h) which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
  - (i) consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,
  - (j) which is made with the consent of the person to whom it relates, or
  - (k) which is made for the purposes of—
    - (i) preventing serious physical harm to a person,
    - (ii) preventing loss of human life,
    - (iii) safeguarding vulnerable adults or children,
    - (iv) responding to an emergency, or
    - (v) protecting national security.
- (3) In subsection (2)(e) “anti-social behaviour” means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) A person commits an offence if—
- (a) the person discloses personal information in contravention of subsection (1), and
  - (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.

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- (5) A person who is guilty of an offence under subsection (4) is liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (6) A person who is guilty of an offence under subsection (4) is liable on summary conviction—
  - (a) in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;
  - (b) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (7) In the application of subsection (6)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.
- (8) This section does not apply to personal information disclosed under section 56 by the Revenue and Customs.

**Commencement Information**

**I44** S. 58 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(v)

**59 Information disclosed by the Revenue and Customs**

- (1) Personal information disclosed by the Revenue and Customs under section 56 and received by a person may not be disclosed by that person.
- (2) Subsection (1) does not apply to a disclosure which is made with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) A person who contravenes subsection (1) is guilty of an offence.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (5) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (3) as they apply to an offence under that section.

**Commencement Information**

**I45** S. 59 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(w)

**60 Code of practice**

- (1) The relevant Minister must issue a code of practice about—



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- (a) the disclosure of information under section 56, and
  - (b) the use of information disclosed under that section.
- (2) The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).
- (3) A specified person must have regard to the code of practice in—
  - (a) disclosing information under section 56, and
  - (b) using information disclosed under that section.
- (4) The relevant Minister may from time to time revise and re-issue the code of practice.
- (5) Before issuing or reissuing the code of practice the relevant Minister must consult—
  - (a) the Information Commissioner,
  - (b) the Commissioners for Her Majesty's Revenue and Customs,
  - (c) the Scottish Ministers,
  - (d) the Welsh Ministers,
  - (e) the Department of Finance in Northern Ireland, and
  - (f) such other persons as the relevant Minister thinks appropriate.
- (6) The fact that this section was not in force when consultation of the kind mentioned in subsection (5) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (7) The relevant Minister may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Before reissuing the code the relevant Minister must lay a draft of the code as proposed to be reissued before Parliament.
- (9) The relevant Minister may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (10) In subsection (9) “the 40 day period” means—
  - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (11) For the purposes of subsection (10) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (12) As soon as is reasonably practicable after issuing or reissuing the code of practice the relevant Minister must lay, or arrange for the laying of, a copy of it before—
  - (a) the Scottish Parliament,
  - (b) the National Assembly for Wales, and
  - (c) the Northern Ireland Assembly.
- (13) In disclosing information under section 56, a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—

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- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (14) The duty in subsection (13) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.

#### **Commencement Information**

**I46** S. 60 in force at 1.10.2017 for E.W.S. by [S.I. 2017/765](#), [reg. 3\(k\)](#)

## **61 Duty to review operation of Chapter**

- (1) As soon as is reasonably practicable after the end of three years beginning with the day on which this Chapter comes into force, the relevant Minister must review its operation for the purposes of deciding whether it should be amended or repealed.
- (2) Before carrying out the review the relevant Minister must publish the criteria by reference to which that determination will be made.
- (3) In carrying out the review the relevant Minister must consult—
  - (a) the Information Commissioner,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers,
  - (d) the Department of Finance in Northern Ireland, and
  - (e) such other persons as the relevant Minister thinks appropriate.
- (4) Once the review is completed the relevant Minister must—
  - (a) publish a report on its outcome, and
  - (b) lay, or arrange for the laying of, a copy of the report before—
    - (i) Parliament,
    - (ii) the Scottish Parliament,
    - (iii) the National Assembly for Wales, and
    - (iv) the Northern Ireland Assembly.
- (5) If as a result of the review the relevant Minister decides that this Chapter should be amended or repealed, the relevant Minister may by regulations amend or repeal it (as the case may be).
- (6) The power in subsection (5) to amend this Chapter—
  - (a) may be exercised for the purposes only of improving the effectiveness of the operation of the power in section 56(1), and
  - (b) may not be used to remove any of the safeguards relating to the use or disclosure of information in section 57, 58 or 59.
- (7) The relevant Minister may only make regulations under subsection (5) with the consent of the Scottish Ministers if the regulations—
  - (a) repeal this Chapter,

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- (b) amend or remove the power of the Scottish Ministers to make regulations under section 56(6),
  - (c) affect the disclosure of information under section 56 by a Scottish body to another such body,
  - (d) affect the use by a Scottish body of information disclosed under that section by such a body, or
  - (e) affect the further disclosure to a Scottish body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Scottish body.
- (8) The relevant Minister may only make regulations under subsection (5) with the consent of the Welsh Ministers if the regulations—
- (a) repeal this Chapter,
  - (b) amend or remove the power of the Welsh Ministers to make regulations under section 56(6),
  - (c) affect the disclosure of information under section 56 by a Welsh body to another such body,
  - (d) affect the use by a Welsh body of information disclosed under that section by such a body, or
  - (e) affect the further disclosure to a Welsh body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Welsh body.
- (9) The relevant Minister may only make regulations under subsection (5) with the consent of the Department of Finance in Northern Ireland if the regulations—
- (a) repeal this Chapter,
  - (b) amend or remove the power of the Department to make regulations under section 56(6),
  - (c) affect the disclosure of information under section 56 by a Northern Ireland body to another such body,
  - (d) affect the use by a Northern Ireland body of information disclosed under that section by such a body, or
  - (e) affect the further disclosure to a Northern Ireland body by such a body, or by a member, officer or employee of such a body, of information disclosed under this Chapter by a Northern Ireland body.
- (10) The relevant Minister may only make regulations under subsection (5) with the consent of the Treasury in a case where the regulations could affect the disclosure of information by the Revenue and Customs.
- (11) Anything required to be published by this section is to be published in such manner as the relevant Minister thinks fit.

**Commencement Information**

**I47** S. 61 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(x)

**62 Regulations under this Chapter**

- (1) Any power to make regulations under this Chapter is exercisable—

*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

- (a) in the case of regulations made by the relevant Minister or the Welsh Ministers, by statutory instrument, and
  - (b) in the case of regulations made by the Department of Finance in Northern Ireland, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)).
- (2) Regulations under this Chapter—
- (a) may make different provision for different purposes;
  - (b) may contain consequential, supplementary, transitional or transitory provision or savings.
- (3) In the case of regulations under section 56(6) which amend Schedule 8 so as to add an entry relating to a person or description of person, this includes power to make provision in relation to information disclosed by that person or a person of that description which is similar to that made by section 59 in relation to information disclosed by the Revenue and Customs.
- (4) A statutory instrument containing regulations made under this Chapter by the relevant Minister may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) Regulations made under section 56(6) by the Scottish Ministers are subject to the affirmative procedure.
- (6) A statutory instrument containing regulations made under section 56(6) by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (7) Regulations under section 56(6) may not be made by the Department of Finance in Northern Ireland unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (8) If a draft of a statutory instrument containing regulations under section 56(6) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

#### **Commencement Information**

**I48** S. 62 in force at 1.10.2017 for specified purposes by [S.I. 2017/765](#), **reg. 3(l)**

**I49** S. 62 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), **reg. 3(y)**

## **63 Interpretation of this Chapter**

- (1) In this Chapter—
- “the appropriate national authority” means the relevant Minister, subject to subsections (2) to (4);
  - “enactment” includes—
    - (a) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
    - (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;

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- (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
  - (d) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
    - “functions” means functions of a public nature;
    - “Northern Ireland body” means—
      - (a) a Minister within the meaning of the Northern Ireland Act 1998,
      - (b) a Northern Ireland department,
      - (c) a Northern Ireland public authority within the meaning of the Statistics and Registration Service Act 2007, or
      - (d) a person providing services to a person within paragraph (a), (b) or (c);
    - “personal information” has the meaning given by section 57(5);
    - “public authority” has the meaning given by section 56(14);
    - “relevant Minister” means the Secretary of State or the Minister for the Cabinet Office;
    - “the Revenue and Customs” has the meaning given by section 17(3) of the Commissioners for Revenue and Customs Act 2005;
    - “Scottish body” means—
      - (a) a person who is a part of the Scottish Administration,
      - (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
      - (c) a person providing services to a person within paragraph (a) or (b);
    - “specified person” has the meaning given by section 56(5);
    - “Welsh body” means—
      - (a) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
      - (b) a person providing services to a devolved Welsh authority as defined by that section.
- (2) The Scottish Ministers are the appropriate national authority in relation to regulations under section 56(6) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Scottish body.
- (3) The Welsh Ministers are the appropriate national authority in relation to regulations under section 56(6) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Welsh body.
- (4) The Department of Finance in Northern Ireland is the appropriate national authority in relation to regulations under section 56(6) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Northern Ireland body.

#### Commencement Information

**I50** S. 63 in force at 1.5.2018 for E.W.S. by S.I. 2018/382, reg. 3(z)

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*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

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## CHAPTER 5

### SHARING FOR RESEARCH PURPOSES

#### 64 Disclosure of information for research purposes

- (1) Information held by a public authority in connection with the authority's functions may be disclosed to another person for the purposes of research which is being or is to be carried out.
- (2) If the information is personal information it may not be disclosed under subsection (1) unless the following conditions are met.
- (3) The first condition is that, if the information identifies a particular person, it is processed before it is disclosed so that—
  - (a) the person's identity is not specified in the information, and
  - (b) it is not reasonably likely that the person's identity will be deduced from the information (whether by itself or taken together with other information).
- (4) For the purposes of the first condition the information may be processed by—
  - (a) the public authority,
  - (b) a person other than the public authority, or
  - (c) both the public authority and a person other than the public authority,(subject to the following provisions of this Chapter).
- (5) Personal information may be disclosed for the purpose of processing it for disclosure under subsection (1)—
  - (a) by a public authority to a person involved in processing the information for that purpose;
  - (b) subject to sections 67(5), 68(5) and 69(5) (information disclosed by revenue authorities), by one such person to another such person.
- (6) The second condition is that each person who is involved in processing the information for disclosure takes reasonable steps to—
  - (a) minimise the risk of the accidental disclosure of information which identifies a particular person, and
  - (b) prevent the deliberate disclosure of such information (otherwise than in accordance with this Chapter).
- (7) The third condition is that the disclosure is made by the public authority or by a person, other than the public authority, who is involved in processing the information for disclosure under subsection (1).
- (8) The fourth condition is that the research for the purposes of which the information is disclosed is accredited under section 71.
- (9) The fifth condition is that the following are accredited under section 71—
  - (a) any person (including the public authority) who is involved in processing the information for disclosure under subsection (1);
  - (b) any person to whom information is disclosed under subsection (1);
  - (c) any person by whom such information is used for research purposes.

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- (10) The sixth condition is that each person who discloses the information or is involved in processing it for disclosure under subsection (1) has regard to the code of practice under section 70 in doing so.
- (11) For the purposes of this Chapter information is “personal information” if—
  - (a) it relates to a particular person (including a body corporate), but
  - (b) it is not information about the internal administrative arrangements of a public authority.
- (12) For the purposes of this Chapter information identifies a particular person if the identity of that person—
  - (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (13) This section is subject to section 65.

#### **Commencement Information**

**I51** S. 64 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(2\)](#)

**I52** S. 64 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(aa\)](#)

## **65 Provisions supplementary to section 64**

- (1) A disclosure under section 64 does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (2) But nothing in section 64 authorises information to be disclosed if to do so would—
  - (a) contravene the Data Protection Act 1998, or
  - (b) be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2)(b) has effect as if it included a reference to that Part.
- (4) In its application to a public authority with functions relating to the provision of health services or adult social care, section 64 does not authorise the disclosure of information held by the authority in connection with such functions.
- (5) Section 64 does not limit the circumstances in which information may be disclosed apart from that section.
- (6) A person within subsection (7) may charge a person who requests information to be disclosed under section 64(1) a fee for work done in response to the request.
- (7) The persons mentioned in subsection (6) are—
  - (a) the public authority to whom the request is made, and
  - (b) a person who is involved in processing the information for disclosure.

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- (8) A fee charged under subsection (6) by a public authority (including a person within subsection (7)(b) who is a public authority) must not exceed the cost to the person of doing the work for which the fee is charged.

**Commencement Information**

**I53** S. 65 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(2\)](#)

**I54** S. 65 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(bb\)](#)

**66 Bar on further disclosure of personal information**

- (1) Subsection (2) applies to personal information—
- (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
  - (b) which is received by a person (“P”) under section 64(1) (disclosure for research purposes).
- (2) Personal information to which this subsection applies may not be disclosed—
- (a) by P, or
  - (b) by any other person who has received it directly or indirectly from P.
- (3) Subsection (2) does not apply to a disclosure—
- (a) to a person by whom the research referred to in section 64(1) is being or is to be carried out, or
  - (b) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 71 as a person to whom such information may be disclosed for that purpose.
- (4) Subsection (5) applies to personal information which—
- (a) identifies a particular person, and
  - (b) is received by a person (“P”) under section 64(5) (disclosure for processing).
- (5) Personal information to which this subsection applies may not be disclosed—
- (a) by P, or
  - (b) by any other person who has received it directly or indirectly from P.
- (6) Subsection (5) does not apply to a disclosure—
- (a) under section 64(1) or (5), or
  - (b) of information previously disclosed under section 64(1), where the disclosure is made by—
    - (i) the person to whom the information was disclosed under that provision, or
    - (ii) any person who has received the information directly or indirectly from the person mentioned in sub-paragraph (i),
 (but subsection (2) may apply to such a disclosure).
- (7) Subsection (2) or (5) does not apply to a disclosure—



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- (a) which is required or permitted by any enactment,
  - (b) which is required by an EU obligation,
  - (c) which is made in pursuance of an order of the court,
  - (d) of information which has already lawfully been made available to the public,
  - (e) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,
  - (f) which is made for the purposes of a criminal investigation,
  - (g) which is made for the purposes of legal proceedings (whether civil or criminal),
  - (h) which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
  - (i) consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest, or
  - (j) which is made with the consent of the person to whom it relates.
- (8) In subsection (7)(a) “enactment” includes—
- (a) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
  - (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
  - (d) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978.
- (9) In subsection (7)(e) “anti-social behaviour” means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
  - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (10) A person commits an offence if—
- (a) the person discloses personal information in contravention of subsection (2) or (5), and
  - (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.
- (11) A person who is guilty of an offence under subsection (10) is liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (12) A person who is guilty of an offence under subsection (10) is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;
  - (b) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.

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- (13) In the application of subsection (12)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.
- (14) This section does not apply to personal information disclosed under section 64(1) or (5) by the Revenue and Customs, the Welsh Revenue Authority or Revenue Scotland.

#### Commencement Information

**I55** S. 66 in force at 1.4.2018 for specified purposes by S.I. 2018/342, reg. 3(2)

**I56** S. 66 in force at 1.5.2018 in so far as not already in force by S.I. 2018/382, reg. 3(cc)

## 67 Information disclosed by the Revenue and Customs

- (1) Subsection (2) applies to personal information—
- (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
  - (b) which—
    - (i) is disclosed under section 64(1) (disclosure for research purposes) by the Revenue and Customs, or
    - (ii) is disclosed under section 64(1) by a person other than the Revenue and Customs and is derived from information disclosed under section 64(5) by the Revenue and Customs, and is received by a person (“P”) under section 64(1).
- (2) Personal information to which this subsection applies may not be disclosed—
- (a) by P, or
  - (b) by a person to whom the information is disclosed by virtue of subsection (3).
- (3) Subsection (2) does not apply to a disclosure—
- (a) to a person by whom the research referred to in section 64(1) is being or is to be carried out, or
  - (b) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 71 as a person to whom such information may be disclosed for that purpose.
- (4) Subsection (5) applies to personal information which—
- (a) identifies a particular person, and
  - (b) is disclosed by the Revenue and Customs under section 64(5) (disclosure for processing) and received by a person (“P”).
- (5) Personal information to which this subsection applies may not be disclosed—
- (a) by P, or
  - (b) by any other person who has received it under section 64(5).
- (6) Subsection (5) does not apply to a disclosure under section 64(1).

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- (7) Subsection (2) or (5) does not apply to a disclosure which is made with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (8) A person who contravenes subsection (2) or (5) is guilty of an offence.
- (9) It is a defence for a person charged with an offence under subsection (8) to prove that the person reasonably believed—
- (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (10) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (8) as they apply to an offence under that section.

#### **Commencement Information**

**I57** S. 67 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(2\)](#)

**I58** S. 67 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(dd\)](#)

## **68 Information disclosed by the Welsh Revenue Authority**

- (1) Subsection (2) applies to personal information—
- (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
  - (b) which—
    - (i) is disclosed under section 64(1) (disclosure for research purposes) by the Welsh Revenue Authority, or
    - (ii) is disclosed under section 64(1) by a person other than the Welsh Revenue Authority and is derived from information disclosed under section 64(5) by the Welsh Revenue Authority,and is received by a person (“P”) under section 64(1).
- (2) Personal information to which this subsection applies may not be disclosed—
- (a) by P, or
  - (b) by a person to whom the information is disclosed by virtue of subsection (3).
- (3) Subsection (2) does not apply to a disclosure—
- (a) to a person by whom the research referred to in section 64(1) is being or is to be carried out, or
  - (b) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 71 as a person to whom such information may be disclosed for that purpose.
- (4) Subsection (5) applies to personal information which—
- (a) identifies a particular person, and

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- (b) is disclosed by the Welsh Revenue Authority under section 64(5) (disclosure for processing) and received by a person (“P”).
- (5) Personal information to which this subsection applies may not be disclosed—
  - (a) by P, or
  - (b) by any other person who has received it under section 64(5).
- (6) Subsection (5) does not apply to a disclosure under section 64(1).
- (7) Subsection (2) or (5) does not apply to a disclosure which is made with the consent of the Welsh Revenue Authority (which may be general or specific).
- (8) A person who contravenes subsection (2) or (5) is guilty of an offence.
- (9) It is a defence for a person charged with an offence under subsection (8) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (10) A person who is guilty of an offence under subsection (8) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine, or to both;
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (11) In the application of subsection (10)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.

#### **Commencement Information**

**I59** S. 68 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(2\)](#)

**I60** S. 68 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(ee\)](#)

## **69 Information disclosed by Revenue Scotland**

- (1) Subsection (2) applies to personal information—
  - (a) in which the identity of a particular person is specified or from which the identity of a particular person can be deduced, whether from the information itself or from that information taken together with any other published information, and
  - (b) which—
    - (i) is disclosed under section 64(1) (disclosure for research purposes) by Revenue Scotland, or
    - (ii) is disclosed under section 64(1) by a person other than Revenue Scotland and is derived from information disclosed under section 64(5) by Revenue Scotland,
 and is received by a person (“P”) under section 64(1).
- (2) Personal information to which this subsection applies may not be disclosed—
  - (a) by P, or

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- (b) by a person to whom the information is disclosed by virtue of subsection (3).
- (3) Subsection (2) does not apply to a disclosure—
  - (a) to a person by whom the research referred to in section 64(1) is being or is to be carried out, or
  - (b) for the purposes of enabling anything that is to be published as a result of the research to be reviewed before publication, where the disclosure is made to a person who is accredited under section 71 as a person to whom such information may be disclosed for that purpose.
- (4) Subsection (5) applies to personal information which—
  - (a) identifies a particular person, and
  - (b) is disclosed by Revenue Scotland under section 64(5) (disclosure for processing) and received by a person (“P”).
- (5) Personal information to which this subsection applies may not be disclosed—
  - (a) by P, or
  - (b) by any other person who has received it under section 64(5).
- (6) Subsection (5) does not apply to a disclosure under section 64(1).
- (7) Subsection (2) or (5) does not apply to a disclosure which is made with the consent of Revenue Scotland (which may be general or specific).
- (8) A person who contravenes subsection (2) or (5) is guilty of an offence.
- (9) It is a defence for a person charged with an offence under subsection (8) to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (10) A person who is guilty of an offence under subsection (8) is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.

#### **Commencement Information**

**I61** S. 69 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(2\)](#)

**I62** S. 69 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(ff\)](#)

## **70 Code of practice**

- (1) The Statistics Board must issue a code of practice about—
  - (a) the disclosure of personal information under section 64,
  - (b) the processing of information under that section, and
  - (c) the holding or use of personal information disclosed under that section.

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- (2) The code of practice must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).
- (3) A public authority must have regard to the code of practice in disclosing personal information or participating in the processing of information under section 64.
- (4) A person who is accredited under section 71(1)(a) must have regard to the code of practice in participating in the processing of information for disclosure under section 64(1).
- (5) A person who is accredited under section 71(1)(b), (c) or (d) must have regard to the code of practice in holding or using personal information disclosed under section 64.
- (6) The Statistics Board may from time to time revise and re-issue the code of practice.
- (7) Before issuing or reissuing the code of practice the Statistics Board must consult—
  - (a) the Minister for the Cabinet Office,
  - (b) the Information Commissioner,
  - (c) the Commissioners for Her Majesty's Revenue and Customs,
  - (d) the Scottish Ministers,
  - (e) the Welsh Ministers,
  - (f) the Department of Finance in Northern Ireland, and
  - (g) such other persons as the Statistics Board thinks appropriate.
- (8) The fact that this section was not in force when consultation of the kind mentioned in subsection (7) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (9) The Statistics Board may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (10) Before reissuing the code the Statistics Board must lay a draft of the code as proposed to be reissued before Parliament.
- (11) The Statistics Board may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (12) In subsection (11) “the 40 day period” means—
  - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (13) For the purposes of subsection (12) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (14) As soon as is reasonably practicable after issuing or reissuing the code of practice the Statistics Board must lay a copy of it before—
  - (a) the Scottish Parliament,
  - (b) the National Assembly for Wales, and
  - (c) the Northern Ireland Assembly.

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- (15) In disclosing information under section 64, a person must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (16) The duty in subsection (15) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.

#### **Commencement Information**

- I63** S. 70 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), **reg. 3(m)**  
**I64** S. 70 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), **reg. 3(2)**  
**I65** S. 70 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382](#), **reg. 3(gg)**

## **71 Accreditation for the purposes of this Chapter**

- (1) The Statistics Board—
- (a) may accredit a person as a person who may be involved in the processing of information for disclosure under subsection (1) of section 64,
  - (b) may accredit a person as a person to whom information may be disclosed under that subsection,
  - (c) may accredit a person as a person by whom information disclosed under that subsection may be used for research purposes,
  - (d) may accredit a person as a person to whom such information may be disclosed for the purposes of a review of the kind mentioned in section 66(3)(b), 67(3)(b), 68(3)(b) or 69(3)(b),
  - (e) may accredit research for the purposes of section 64, and
  - (f) may withdraw accreditation given under any of paragraphs (a) to (e).
- (2) The Statistics Board—
- (a) must establish and publish conditions to be met by a person for accreditation under subsection (1)(a), (b), (c) or (d),
  - (b) must establish and publish conditions to be met by research for accreditation under subsection (1)(e), and
  - (c) must establish and publish grounds for the withdrawal of accreditation under subsection (1)(f).
- (3) The conditions established and published under subsection (2)(a) must, in the case of a person seeking accreditation to be involved in the processing of information for disclosure under section 64(1), include a condition that the person is a fit and proper person to be involved in such processing.
- (4) The conditions established and published under subsection (2)(b) must include a condition that the research is in the public interest.

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- (5) The grounds established and published under subsection (2)(c) must, in the case of a person accredited under this section, include the ground that the person has failed to have regard to the code of practice under section 70.
- (6) Before publishing conditions under subsection (2)(a) or (b) or grounds under subsection (2)(c), the Statistics Board must consult—
  - (a) the Minister for the Cabinet Office,
  - (b) the Information Commissioner,
  - (c) the Commissioners for Her Majesty's Revenue and Customs,
  - (d) the Scottish Ministers,
  - (e) the Welsh Ministers,
  - (f) the Department of Finance in Northern Ireland, and
  - (g) such other persons as the Statistics Board thinks appropriate.
- (7) The Statistics Board—
  - (a) may from time to time revise conditions or grounds published under this section, and
  - (b) if it does so, must publish the conditions or grounds as revised.
- (8) Subsection (6) applies in relation to the publication of conditions or grounds under subsection (7) as it applies in relation to the publication of conditions or grounds under subsection (2).
- (9) The Statistics Board must maintain and publish—
  - (a) a register of persons who are accredited under subsection (1)(a),
  - (b) a register of persons who are accredited under subsection (1)(b),
  - (c) a register of persons who are accredited under subsection (1)(c), and
  - (d) a register of persons who are accredited under subsection (1)(d).
- (10) A register under any of the paragraphs of subsection (9) may be combined with a register under any of the other paragraphs of that subsection.
- (11) Anything required by this section to be published must be published in such manner as the Statistics Board thinks appropriate for bringing it to the attention of persons likely to be affected by it.

#### **Commencement Information**

**I66** S. 71 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(2\)](#)

**I67** S. 71 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(hh\)](#)

## **72 Delegation of functions of the Statistics Board**

- (1) The Statistics Board may delegate any of its functions under section 71 to another person if the Board thinks that the person—
  - (a) is a fit and proper person to exercise the function in question, and
  - (b) has expertise in statistical research and analysis.
- (2) Subsection (1) does not affect the operation of section 36 of the Statistics and Registration Service Act 2007 (delegation of Board's functions).



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*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

#### Commencement Information

**I68** S. 72 in force at 1.4.2018 for specified purposes by S.I. 2018/342, reg. 3(2)

**I69** S. 72 in force at 1.5.2018 in so far as not already in force by S.I. 2018/382, reg. 3(ii)

### 73 Interpretation of this Chapter

(1) In this Chapter—

“personal information” has the meaning given by section 64(11);

“public authority” means a person with functions of a public nature, subject to subsection (2);

“the Revenue and Customs” has the meaning given by section 17(3) of the Commissioners for Revenue and Customs Act 2005.

(2) A person is not a public authority for the purposes of this Chapter if the person—

- (a) only has functions relating to the provision of health services,
- (b) only has functions relating to the provision of adult social care, or
- (c) only has functions within paragraph (a) and paragraph (b).

(3) The following are to be disregarded in determining whether subsection (2) applies to a person—

- (a) any power (however expressed) to do things which are incidental to the carrying out of another function of that person;
- (b) any function which the person exercises or may exercise on behalf of another person.

(4) In this Chapter “health services” means—

- (a) services which must or may be provided as part of the health service as defined by section 275(1) of the National Health Service Act 2006 or section 206(1) of the National Health Service (Wales) Act 2006,
- (b) services which must or may be provided as part of the health service as defined by section 108(1) of the National Health Service (Scotland) Act 1978, or
- (c) services designed to secure any of the objects of section 2(1)(a) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.

(5) In this Chapter “adult social care” includes all forms of personal care and other practical assistance provided for individuals aged 18 or over who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or assistance.

(6) References in this Chapter to information which identifies a particular person are to be read in accordance with section 64(12).

#### Commencement Information

**I70** S. 73 in force at 1.4.2018 for specified purposes by S.I. 2018/342, reg. 3(2)

**I71** S. 73 in force at 1.5.2018 in so far as not already in force by S.I. 2018/382, reg. 3(jj)

*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

## CHAPTER 6

### DISCLOSURE BY REVENUE AUTHORITIES

#### 74 Disclosure of non-identifying information by the Revenue and Customs

- (1) A Revenue and Customs official may disclose to any person information held by the Revenue and Customs in connection with a function of the Revenue and Customs if—
  - (a) the information is non-identifying information, and
  - (b) the official thinks that the disclosure would be in the public interest.
- (2) Information is non-identifying information for the purposes of this section if—
  - (a) it is not, and has never been, identifying information, or
  - (b) it has been created by combining identifying information, but is not itself identifying information.
- (3) Information is identifying information for the purposes of this section if it relates to a person whose identity—
  - (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (4) In this section—
  - (a) “Revenue and Customs official” has the meaning given by section 18(4)(a) of the Commissioners for Revenue and Customs Act 2005,
  - (b) “the Revenue and Customs” has the meaning given by section 17(3) of that Act, and
  - (c) “function of the Revenue and Customs” has the meaning given by section 18(4)(c) of that Act.

#### **Commencement Information**

**I72** S. 74 in force at 31.7.2017 by S.I. 2017/765, reg. 2(q)

#### 75 Disclosure of non-identifying information by the Welsh Revenue Authority

- (1) A relevant official of the Welsh Revenue Authority may disclose relevant information to any person if—
  - (a) the information is non-identifying information, and
  - (b) the official thinks that the disclosure would be in the public interest.
- (2) Information is non-identifying information for the purposes of this section if—
  - (a) it is not, and has never been, identifying information, or
  - (b) it has been created by combining identifying information, but is not itself identifying information.
- (3) Information is identifying information for the purposes of this section if it relates to a person whose identity—
  - (a) is specified in the information,
  - (b) can be deduced from the information, or

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- (c) can be deduced from the information taken together with any other information.
- (4) In this section—
  - (a) “relevant official of the Welsh Revenue Authority” means a person within any of paragraphs (a) to (d) of section 17(2) of the Tax Collection and Management (Wales) Act 2016, and
  - (b) “relevant information” means information which—
    - (i) is held by the Welsh Revenue Authority in connection with its functions, or
    - (ii) is held by a person to whom any of the functions of the Welsh Revenue Authority have been delegated in connection with those functions.

**Commencement Information**

**I73** S. 75 in force at 1.4.2018 by S.I. 2018/342, reg. 3(2)

**76 Disclosure of non-identifying information by Revenue Scotland**

- (1) A relevant official of Revenue Scotland may disclose to any person information held by a relevant person in connection with a relevant function if—
  - (a) the information is non-identifying information, and
  - (b) the official thinks that the disclosure would be in the public interest.
- (2) Information is non-identifying information for the purposes of this section if—
  - (a) it is not, and has never been, identifying information, or
  - (b) it has been created by combining identifying information, but is not itself identifying information.
- (3) Information is identifying information for the purposes of this section if it relates to a person whose identity—
  - (a) is specified in the information,
  - (b) can be deduced from the information, or
  - (c) can be deduced from the information taken together with any other information.
- (4) In this section—
  - (a) “relevant official of Revenue Scotland” means a relevant official as defined by section 15(2) of the Revenue Scotland and Tax Powers Act 2014,
  - (b) “relevant person” has the meaning given by section 13(2) of that Act, and
  - (c) “relevant function” means a function mentioned in section 13(3)(a), (b)(i) or (c)(i) of that Act.

**Commencement Information**

**I74** S. 76 in force at 31.7.2017 by S.I. 2017/765, reg. 2(r)

*Status: Point in time view as at 01/05/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5. (See end of Document for details)*

## 77 Disclosure of employer reference information by the Revenue and Customs

- (1) A Revenue and Customs official may disclose employer reference information held by the Revenue and Customs to the Employers' Liability Tracing Office for use by it for the permitted purpose.
- (2) The Employers' Liability Tracing Office is the company registered in England and Wales with the company registration number 06964651.
- (3) The permitted purpose is the purpose of providing assistance in connection with—
  - (a) claims against an employer, or an employer's insurer, arising from personal injury or death that occurred, or is alleged to have occurred, in the course of a person's employment by that employer, or
  - (b) applications for a payment under the Diffuse Mesothelioma Payment Scheme established under the Mesothelioma Act 2014.
- (4) “Employer reference information” means any of the following information relating to an employer—
  - (a) the employer's name and address;
  - (b) any combination of numbers, letters or characters that is uniquely associated with the employer and used by the Revenue and Customs to identify or refer to the employer, whether generally or for particular purposes.
- (5) References in this section to an employer include references to a person who has at any time been an employer.
- (6) In this section—
 

“employer” and “employment” have the same meaning as in the employment income Parts of the Income Tax (Earnings and Pensions) Act 2003;

“Revenue and Customs official” has the meaning given by section 18(4)(a) of the Commissioners for Revenue and Customs Act 2005;

“the Revenue and Customs” has the meaning given by section 17(3) of that Act.

### Commencement Information

**I75** S. 77 in force at 31.7.2017 by S.I. 2017/765, reg. 2(s)

## CHAPTER 7

### STATISTICS

## 78 Disclosure of information by the Revenue and Customs to the Statistics Board

- (1) Section 45 of the Statistics and Registration Service Act 2007 (disclosure of HMRC information to the Statistics Board) is amended as follows.
- (2) In subsection (2) omit “, other than its function under section 22 (statistical services)”.
- (3) After subsection (2) insert—

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- “(2A) In determining whether the condition in subsection (2) is met the Commissioners must have regard to any views of the Board which have been communicated to them.”
- (4) In subsection (3) omit “, other than its function under section 22”.
- (5) After that subsection insert—
- “(3A) Information disclosed under subsection (1) may not be used by the Board for the purposes of its function under section 22 (statistical services) except with the consent of the Commissioners.”
- (6) After subsection (4) insert—
- “(4A) In disclosing information under subsection (1), the Commissioners or an officer of Revenue and Customs must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (4B) The duty in subsection (4A) to have regard to a code of practice does not affect any other requirement for the Commissioners or an officer of Revenue and Customs to have regard to a code of practice under the Data Protection Act 1998 in disclosing the information.
- (4C) In determining how to comply with the duty in subsection (4A) the Commissioners or the officer of Revenue and Customs must have regard to any views of the Board which are communicated to the Commissioners or the officer.”
- (7) Omit subsection (5) (which prevents the disclosure of personal information not relating to imports or exports).

#### **Commencement Information**

**I76** S. 78 in force at 31.7.2017 by S.I. 2017/765, reg. 2(t)

## **79 Disclosure of information by public authorities to the Statistics Board**

- (1) The Statistics and Registration Service Act 2007 is amended as follows.
- (2) After section 45 insert—

### **“45A Information held by other public authorities**

- (1) A public authority to which this section applies may, subject to this section, disclose to the Board any information held by the authority in connection with its functions.
- (2) This section applies to a public authority other than—

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- (a) the Commissioners for Her Majesty's Revenue and Customs, or
  - (b) an officer of Revenue and Customs.
- (3) A public authority may disclose information under subsection (1) only if it is satisfied that the Board requires the information to enable it to exercise one or more of its functions.
- (4) In determining whether the condition in subsection (3) is met the public authority must have regard to any views of the Board which have been communicated to the authority.
- (5) Information disclosed under subsection (1) may only be used by the Board for the purposes of any one or more of its functions.
- (6) Information disclosed under subsection (1) may not be used by the Board for the purposes of its function under section 22 (statistical services) except with the consent of the public authority which disclosed the information.
- (7) Where personal information is disclosed by a public authority to the Board under subsection (1), the Board may not disclose the information to an approved researcher under section 39(4)(i) except with the consent of the public authority.
- (8) In disclosing information under subsection (1), a public authority must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—
  - (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (9) The duty in subsection (8) to have regard to a code of practice does not affect any other requirement for the public authority to have regard to a code of practice under the Data Protection Act 1998 in disclosing the information.
- (10) In determining how to comply with the duty in subsection (8) the public authority must have regard to any views of the Board which are communicated to the authority.
- (11) A disclosure under subsection (1) does not breach—
  - (a) any obligation of confidence owed by the public authority making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (12) But subsection (1) does not authorise the making of a disclosure which—
  - (a) contravenes the Data Protection Act 1998,
  - (b) is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016, or
  - (c) contravenes directly applicable EU legislation or any enactment to the extent that it implements EU legislation.

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- (13) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (12)(b) has effect as if it included a reference to that Part.
- (14) This section does not limit the circumstances in which information may be disclosed apart from this section.”
- (3) Omit—
- (a) section 47 (power to authorise disclosure to the Board);
  - (b) section 48 (power to authorise disclosure to the Board: Scotland);
  - (c) section 49 (power to authorise disclosure to the Board: Northern Ireland).
- (4) In section 54 (Data Protection Act 1998 and Human Rights Act 1998) for “47” substitute “ 50 ”.
- (5) In section 65 (orders and regulations)—
- (a) in subsection (4) omit “47(11),”;
  - (b) in subsection (5)(b) omit “47,”;
  - (c) in subsection (6)(b) omit “48 or”;
  - (d) in subsection (9)(c) omit “49 or”.
- (6) In section 67 (general interpretation) for the definition of “enactment” substitute—
- ““enactment” includes—
- (a) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
  - (b) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
  - (c) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
  - (d) an enactment contained in, or in an instrument made under, Northern Ireland legislation;”.

#### Commencement Information

**I77** S. 79(1)(2)(4)-(6) in force at 31.7.2017 for E.W.S. by [S.I. 2017/765](#), [reg. 2\(u\)](#)

**I78** S. 79(1)(2)(4)-(6) in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(kk\)](#)

**I79** S. 79(3) in force at 1.5.2018 by [S.I. 2018/382](#), [reg. 3\(kk\)](#)

## 80 Access to information by the Statistics Board

After section 45A of the Statistics and Registration Service Act 2007 (inserted by section 79) insert—

### “45B Access to information held by Crown bodies etc

- (1) This section applies to—
- (a) a public authority which is an emanation of the Crown or a servant or agent of the Crown,

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- (b) the Bank of England (including in the exercise of its functions as the Prudential Regulation Authority),
  - (c) a subsidiary undertaking of the Bank of England within the meaning of the Companies Acts (see sections 1161 and 1162 of the Companies Act 2006),
  - (d) the Financial Conduct Authority, and
  - (e) the Payment Systems Regulator established under section 40 of the Financial Services (Banking Reform) Act 2013.
- (2) Subject to this section and section 45E, the Board has a right of access to information which—
- (a) is held by a public authority to which this section applies in connection with its functions, and
  - (b) is required by the Board to enable it to exercise one or more of its functions.
- (3) Subsection (2) does not apply to information if the disclosure of that information—
- (a) would contravene the Data Protection Act 1998,
  - (b) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016, or
  - (c) would contravene directly applicable EU legislation or any enactment to the extent that it implements EU legislation.
- (4) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (3)(b) has effect as if it included a reference to that Part.
- (5) The right of access in subsection (2) is to be exercised in accordance with the following provisions of this section.
- (6) The Board may, by notice in writing to the public authority, request the authority to disclose the information to the Board.
- (7) A notice under subsection (6) must—
- (a) set out the Board's reasons for requesting the information to be disclosed, and
  - (b) specify the date by which or the period within which the public authority must respond to the request.
- (8) The public authority must, by that date or within that period, provide a response in writing to the Board which—
- (a) indicates that it is willing to provide the information and gives the date by which it will be provided, or
  - (b) indicates that it is not willing to provide the information and gives reasons for not providing it.
- (9) Subsection (10) applies if—
- (a) the public authority fails to respond to the request in accordance with subsection (8),
  - (b) the public authority indicates that it is not willing to provide the information requested, or



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- (c) the public authority has indicated that it is willing to provide the information requested, but the Board considers that the public authority is failing to take reasonable steps to comply with that request.
- (10) The Board may lay the request and any response by the public authority before the relevant legislature.
- (11) In subsection (10) “the relevant legislature” means Parliament, subject as follows.
- (12) The Scottish Parliament is the relevant legislature if the public authority—
  - (a) is a part of the Scottish Administration, or
  - (b) is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).
- (13) The National Assembly for Wales is the relevant legislature if the public authority is a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006.
- (14) The Northern Ireland Assembly is the relevant legislature if—
  - (a) the public authority exercises functions only as regards Northern Ireland, and
  - (b) its functions are wholly or mainly functions which relate to transferred matters (within the meaning of the Northern Ireland Act 1998).
- (15) This section does not apply to—
  - (a) Her Majesty in Her private capacity,
  - (b) Her Majesty in right of the Duchy of Lancaster, or
  - (c) the Duke of Cornwall.
- (16) Until the coming into force of section 12 of the Bank of England and Financial Services Act 2016 subsection (1)(b) has effect as if the words in brackets were omitted.

#### **45C Power to require disclosures by other public authorities**

- (1) This section applies to a public authority to which section 45B does not apply (other than one within subsection (15) of that section).
- (2) Subject to this section and section 45E, the Board may, by notice in writing to a public authority to which this section applies, require the authority to disclose to the Board information which—
  - (a) is held by the authority in connection with its functions, and
  - (b) is specified, or is of a kind specified, in the notice.
- (3) A notice under subsection (2) may require information to be disclosed on more than one date specified in the notice within a period specified in the notice.
- (4) A notice under subsection (2) other than one within subsection (3) must specify the date by which or the period within which the information must be disclosed.
- (5) A notice under subsection (2) may specify the form or manner in which the information to which it relates must be disclosed.

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- (6) A notice under subsection (2) may require the public authority to consult the Board before making changes to—
- (a) its processes for collecting, organising, storing or retrieving the information to which the notice relates, or
  - (b) its processes for supplying such information to the Board.
- (7) The reference in subsection (6) to making changes to a process includes introducing or removing a process.
- (8) The Board may give a notice under subsection (2) only if the Board requires the information to which the notice relates to enable it to exercise one or more of its functions.
- (9) The Board must obtain the consent of the Scottish Ministers before giving a notice under subsection (2) to a public authority which is a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998).
- (10) The Board must obtain the consent of the Welsh Ministers before giving a notice under subsection (2) to a public authority which is a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006.
- (11) The Board must obtain the consent of the Department of Finance in Northern Ireland before giving a notice under subsection (2) to a public authority if—
- (a) the public authority exercises functions only as regards Northern Ireland, and
  - (b) its functions are wholly or mainly functions which relate to transferred matters (within the meaning of the Northern Ireland Act 1998).
- (12) A public authority to which a notice under subsection (2) is given must comply with it.
- (13) But the public authority need not comply with the notice if compliance—
- (a) might prejudice national security,
  - (b) would contravene the Data Protection Act 1998,
  - (c) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016, or
  - (d) would contravene directly applicable EU legislation or any enactment to the extent that it implements EU legislation.
- (14) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (13)(c) has effect as if it included a reference to that Part.

#### **45D Power to require disclosure by undertakings**

- (1) Subject to this section and section 45E, the Board may, by notice in writing to an undertaking, require the undertaking to disclose to the Board information which—
- (a) is held by the undertaking, and
  - (b) is specified, or is of a kind specified, in the notice.

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- (2) A notice under subsection (1) may require information to be disclosed on more than one date specified in the notice within a period specified in the notice.
- (3) A notice under subsection (1) other than one within subsection (2) must specify the date by which or the period within which the information must be disclosed.
- (4) A notice under subsection (1) may specify the form or manner in which the information to which it relates must be disclosed.
- (5) A notice under subsection (1) may require the undertaking to consult the Board before making changes to—
  - (a) its processes for collecting, organising, storing or retrieving the information to which the notice relates, or
  - (b) its processes for supplying such information to the Board.
- (6) The reference in subsection (5) to making changes to a process includes introducing or removing a process.
- (7) The Board may give a notice under subsection (1) only if the Board requires the information to which the notice relates to enable it to exercise one or more of its functions.
- (8) An undertaking to which a notice under subsection (1) is given must comply with it.
- (9) But the undertaking need not comply with the notice if compliance—
  - (a) might prejudice national security,
  - (b) would contravene the Data Protection Act 1998, or
  - (c) would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (10) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (9)(c) has effect as if it included a reference to that Part.
- (11) Subject to subsection (13), in this section “undertaking” means—
  - (a) any person carrying on a trade or business, whether or not with a view to profit, or
  - (b) any charity.
- (12) In subsection (11) “charity” means a body, or the trustees of a trust, established for charitable purposes only.
- (13) The following are not undertakings for the purposes of this section—
  - (a) a public authority;
  - (b) a micro business;
  - (c) a small business.
- (14) Section 33 of the Small Business, Enterprise and Employment Act 2015 (definitions of small and micro business) and regulations made under that section apply in relation to subsection (13) as they apply in relation to subordinate legislation within subsection (1) of that section.

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#### **45E Further provisions about powers in sections 45B, 45C and 45D**

- (1) Information disclosed under section 45B, 45C or 45D may only be used by the Board for the purposes of any one or more of its functions.
- (2) Information disclosed under section 45B, 45C or 45D may not be used by the Board for the purposes of its function under section 22 (statistical services) except with the consent of the person who disclosed the information.
- (3) Where personal information is disclosed under section 45B, 45C or 45D, the Board may not disclose the information to an approved researcher under section 39(4)(i) except with the consent of the person who disclosed the information.
- (4) A disclosure pursuant to section 45B, 45C or 45D does not breach—
  - (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (5) The Board must prepare and publish a statement of—
  - (a) the principles to which it will have regard in exercising its functions under sections 45B, 45C and 45D, and
  - (b) the procedures which it will adopt in exercising those functions.
- (6) The statement must be consistent with the code of practice issued under section 52B (data-sharing code) of the Data Protection Act 1998 (as altered or replaced from time to time).
- (7) The Board may at any time revise the statement and, if it decides to do so, must publish the statement as revised.
- (8) In preparing or revising the statement the Board must consult—
  - (a) the Minister for the Cabinet Office,
  - (b) the Information Commissioner,
  - (c) the Scottish Ministers,
  - (d) the Welsh Ministers,
  - (e) the Department of Finance in Northern Ireland, and
  - (f) such other persons as the Board thinks fit.
- (9) The fact that this section was not in force when consultation of the kind mentioned in subsection (8) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (10) The Board may not publish the original statement under this section unless a draft of the statement has been laid before, and approved by a resolution of, each House of Parliament.
- (11) Before publishing a revised statement under this section the Board must lay a draft of the statement as proposed to be published before Parliament.
- (12) The Board may not publish the revised statement if, within the 40-day period, either House of Parliament resolves not to approve it.

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- (13) In subsection (12) “the 40 day period” means—
- (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
  - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (14) For the purposes of subsection (13) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (15) After preparing or revising a statement the Board must lay the statement, or the statement as revised, before—
- (a) the Scottish Parliament,
  - (b) the National Assembly for Wales, and
  - (c) the Northern Ireland Assembly.
- (16) In exercising any of its functions under section 45B, 45C or 45D to require the disclosure of information, the Board must have regard to any code of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998 which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information, so far as the code applies to the information in question.
- (17) The duty in subsection (16) to have regard to a code of practice does not affect any other requirement for the Board to have regard to a code of practice under the Data Protection Act 1998 in exercising the function.

#### **45F Offences relating to notices under section 45C or 45D**

- (1) A person is guilty of an offence if—
- (a) the person is given a notice under section 45C or 45D,
  - (b) the person is required to comply with the notice,
  - (c) the person fails to do so, and
  - (d) the person does not have a reasonable excuse for that failure.
- (2) A person is guilty of an offence if, in purporting to comply with a notice under section 45C or 45D, the person—
- (a) provides information which is false in a material respect, and
  - (b) knows that the information is false in that respect or is reckless as to whether it is false in that respect.
- (3) A person who is guilty of an offence under subsection (1) or (2) is liable on summary conviction—
- (a) in England and Wales, to a fine, and
  - (b) in Scotland or Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (4) If an offence under this section is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, is to be treated as having committed the offence.

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- (5) In subsection (4) a reference to an officer of a body includes a reference to—
  - (a) a director, manager or secretary,
  - (b) a person purporting to act as a director, manager or secretary, and
  - (c) if the affairs of the body are managed by its members, a member.
- (6) Where an offence under this section is committed by a partnership (whether or not a limited partnership) subsection (4) has effect, but as if a reference to an officer of the body were a reference to—
  - (a) a partner, and
  - (b) a person purporting to act as a partner.

#### **45G Code of practice on changes to data systems**

- (1) The Board must prepare, adopt and publish a code of practice containing guidance on the matters to be taken into account by a public authority in making changes to—
  - (a) its processes for collecting, organising, storing or retrieving information, or
  - (b) its processes (if any) for supplying information to the Board.
- (2) A public authority must have regard to any code of practice under this section in making such changes.
- (3) The Board may at any time revise a code of practice under this section and, if it decides to do so, must publish the code as revised.
- (4) In preparing or revising a code of practice under this section, the Board must consult—
  - (a) the Minister for the Cabinet Office,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers,
  - (d) the Department of Finance in Northern Ireland, and
  - (e) such other persons as the Board thinks fit.
- (5) The fact that this section was not in force when consultation of the kind mentioned in subsection (4) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (6) The Board may not publish the original code of practice under this section unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament
- (7) Before publishing a revised code of practice under this section the Board must lay a draft of the code as proposed to be published before Parliament.
- (8) The Board may not publish the revised code of practice if, within the 40-day period, either House of Parliament resolves not to approve it.
- (9) In subsection (8) “the 40 day period” means—
  - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or

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- (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (10) For the purposes of subsection (9) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (11) After preparing or revising a code of practice under this section the Board must lay the code, or the code as revised, before—
  - (a) the Scottish Parliament,
  - (b) the National Assembly for Wales, and
  - (c) the Northern Ireland Assembly.
- (12) The reference in subsection (1) to making changes to a process includes introducing or removing a process.
- (13) This section binds the Crown.
- (14) The reference to the Crown in subsection (13) does not include—
  - (a) Her Majesty in Her private capacity,
  - (b) Her Majesty in right of the Duchy of Lancaster, or
  - (c) the Duke of Cornwall.”

#### Commencement Information

- 180** S. 80 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), [reg. 3\(n\)](#)
- 181** S. 80 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(II\)](#)

## 81 Disclosure by the Statistics Board to devolved administrations

After section 53 of the Statistics and Registration Service Act 2007 insert—

### “53A Disclosure by the Board to devolved administrations

- (1) Subject to this section, the Board may disclose information held by the Board in connection with the exercise of any of its functions to a devolved authority.
- (2) In this section “devolved authority” means—
  - (a) a person who is a part of the Scottish Administration,
  - (b) the Welsh Ministers,
  - (c) the Department of Finance in Northern Ireland, or
  - (d) the Registrar General for Northern Ireland.
- (3) Information may only be disclosed under this section for the purposes of any or all of the statistical functions of a devolved authority.
- (4) Information may only be disclosed under this section in response to a request in writing by a devolved authority which specifies—
  - (a) the information which is sought, and
  - (b) the purposes for which it is sought.

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- (5) A request under subsection (4) may request information to be disclosed on more than one date specified in the notice within a period specified in the notice.
- (6) Information may be disclosed under this section only if—
- (a) the Board is satisfied that the information is required for the purposes of the statistical functions of the devolved authority which are specified in the request,
  - (b) the Board is satisfied that the information will not be used for any other purpose, and
  - (c) if the information was obtained by the Board from a public authority, the authority consents to the disclosure.
- (7) The Board may—
- (a) disclose information under this section subject to conditions to be met by the devolved authority;
  - (b) from time to time modify conditions subject to which information has been disclosed;
  - (c) in the case of information which it is disclosing in response to a request to which subsection (5) applies, cease to disclose information in response to the request if any of the conditions are breached.
- (8) A devolved authority may only use information disclosed under this section for the purposes for which it was disclosed.
- (9) In disclosing information under subsection (1), the Board must have regard to the following codes of practice issued by the Information Commissioner under section 51(3) of the Data Protection Act 1998, so far as they apply to the information in question—
- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
  - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (10) The duty in subsection (9) to have regard to a code of practice does not affect any other requirement for the Board to have regard to a code of practice under the Data Protection Act 1998 in disclosing the information.
- (11) In the application of section 39 to personal information which has been disclosed to a devolved authority under this section, paragraphs (c) and (i) of subsection (4) of that section do not apply.
- (12) This section does not authorise the making of a disclosure which would—
- (a) breach any obligation of confidence owed by the Board,
  - (b) contravene the Data Protection Act 1998,
  - (c) be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016, or
  - (d) breach any other restriction on the disclosure of information (however imposed).
- (13) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016



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is fully in force, subsection (12)(c) has effect as if it included a reference to that Part.

(14) Nothing in this section affects the scope of the powers in sections 51 to 53.”

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**Commencement Information**

**I82** S. 81 in force at 31.7.2017 for E.W.S. by S.I. 2017/765, reg. 2(v)

**I83** S. 81 in force at 1.5.2018 in so far as not already in force by S.I. 2018/382, reg. 3(mm)

**Status:**

Point in time view as at 01/05/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Digital Economy Act 2017, PART 5.