

SCHEDULES

SCHEDULE 11

Section 112

OTHER EXEMPTIONS UNDER PART 4

Preliminary

- 1 In this Schedule, “the listed provisions” means—
- (a) Chapter 2 of Part 4 (the data protection principles), except section 86(1)(a) and (2) and Schedules 9 and 10;
 - (b) Chapter 3 of Part 4 (rights of data subjects);
 - (c) in Chapter 4 of Part 4, section 108 (communication of personal data breach to the Commissioner).

Crime

- 2 The listed provisions do not apply to personal data processed for any of the following purposes—
- (a) the prevention and detection of crime, or
 - (b) the apprehension and prosecution of offenders,
- to the extent that the application of the listed provisions would be likely to prejudice any of the matters mentioned in paragraph (a) or (b).

Information required to be disclosed by law etc or in connection with legal proceedings

- 3 (1) The listed provisions do not apply to personal data consisting of information that the controller is obliged by an enactment to make available to the public, to the extent that the application of the listed provisions would prevent the controller from complying with that obligation.
- (2) The listed provisions do not apply to personal data where disclosure of the data is required by an enactment, a rule of law or the order of a court, to the extent that the application of the listed provisions would prevent the controller from making the disclosure.
- (3) The listed provisions do not apply to personal data where disclosure of the data—
- (a) is necessary for the purpose of, or in connection with, legal proceedings (including prospective legal proceedings),
 - (b) is necessary for the purpose of obtaining legal advice, or
 - (c) is otherwise necessary for the purposes of establishing, exercising or defending legal rights,
- to the extent that the application of the listed provisions would prevent the controller from making the disclosure.

Status: This is the original version (as it was originally enacted).

Parliamentary privilege

- 4 The listed provisions do not apply to personal data where this is required for the purpose of avoiding an infringement of the privileges of either House of Parliament.

Judicial proceedings

- 5 The listed provisions do not apply to personal data to the extent that the application of the listed provisions would be likely to prejudice judicial proceedings.

Crown honours and dignities

- 6 The listed provisions do not apply to personal data processed for the purposes of the conferring by the Crown of any honour or dignity.

Armed forces

- 7 The listed provisions do not apply to personal data to the extent that the application of the listed provisions would be likely to prejudice the combat effectiveness of any of the armed forces of the Crown.

Economic well-being

- 8 The listed provisions do not apply to personal data to the extent that the application of the listed provisions would be likely to prejudice the economic well-being of the United Kingdom.

Legal professional privilege

- 9 The listed provisions do not apply to personal data that consists of—
- (a) information in respect of which a claim to legal professional privilege or, in Scotland, confidentiality of communications, could be maintained in legal proceedings, or
 - (b) information in respect of which a duty of confidentiality is owed by a professional legal adviser to a client of the adviser.

Negotiations

- 10 The listed provisions do not apply to personal data that consists of records of the intentions of the controller in relation to any negotiations with the data subject to the extent that the application of the listed provisions would be likely to prejudice the negotiations.

Confidential references given by the controller

- 11 The listed provisions do not apply to personal data consisting of a reference given (or to be given) in confidence by the controller for the purposes of—
- (a) the education, training or employment (or prospective education, training or employment) of the data subject,
 - (b) the appointment (or prospective appointment) of the data subject to any office, or
 - (c) the provision (or prospective provision) by the data subject of any service.

Exam scripts and marks

- 12 (1) The listed provisions do not apply to personal data consisting of information recorded by candidates during an exam.
- (2) Where personal data consists of marks or other information processed by a controller—
- (a) for the purposes of determining the results of an exam, or
 - (b) in consequence of the determination of the results of an exam,
- section 94 has effect subject to sub-paragraph (3).
- (3) Where the relevant time falls before the results of the exam are announced, the period mentioned in section 94(10)(b) is extended until the earlier of—
- (a) the end of the period of 5 months beginning with the relevant time, and
 - (b) the end of the period of 40 days beginning with the announcement of the results.
- (4) In this paragraph—
- “exam” means an academic, professional or other examination used for determining the knowledge, intelligence, skill or ability of a candidate and may include an exam consisting of an assessment of the candidate’s performance while undertaking work or any other activity;
 - “the relevant time” has the same meaning as in section 94.
- (5) For the purposes of this paragraph, the results of an exam are treated as announced when they are first published or, if not published, first communicated to the candidate.

Research and statistics

- 13 (1) The listed provisions do not apply to personal data processed for—
- (a) scientific or historical research purposes, or
 - (b) statistical purposes,
- to the extent that the application of those provisions would prevent or seriously impair the achievement of the purposes in question.
- (2) The exemption in sub-paragraph (1) is available only where—
- (a) the personal data is processed subject to appropriate safeguards for the rights and freedoms of data subjects, and
 - (b) the results of the research or any resulting statistics are not made available in a form which identifies a data subject.

Archiving in the public interest

- 14 (1) The listed provisions do not apply to personal data processed for archiving purposes in the public interest to the extent that the application of those provisions would prevent or seriously impair the achievement of those purposes.
- (2) The exemption in sub-paragraph (1) is available only where the personal data is processed subject to appropriate safeguards for the rights and freedoms of data subjects.