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STATUTORY INSTRUMENTS

2011 No. 1034

DATA PROTECTION

**The Data Protection (Subject Access Modification)
(Social Work) (Amendment) Order 2011**

Made - - - - *31st March 2011*

Coming into force - - *1st April 2011*

The Secretary of State makes the following Order in exercise of the powers conferred by section 30(3) of the Data Protection Act 1998⁽¹⁾.

The Secretary of State considers that the application of the subject information provisions without the modification made by this Order in relation to the data specified in this Order would be likely to prejudice the carrying out of social work.

In accordance with section 67(3) of that Act, he has consulted the Information Commissioner.

In accordance with section 67(4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2011 and comes into force on the day after the day on which it is made.

Amendments to the Data Protection (Subject Access Modification) (Social Work) Order 2000

2. The Data Protection (Subject Access Modification) (Social Work) Order 2000⁽²⁾ is amended in accordance with articles 3, 4 and 5 below.

3. In article 5(2)(a), for “(s) or (t)”, substitute “(rr), (s), (t) or (tt)”.

4. In article 7(2), for “(s) or (t)”, substitute “(rr), (s), (t) or (tt)”.

5. In paragraph 1 of the Schedule insert at the appropriate places—

(1) 1998 c.29.

(2) S.I. 2000/415, amended by S.I. 2005/467; there are other amending instruments but none is relevant.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“(rr) data processed by the Welsh family proceedings officer for the purposes of the functions under section 7 of the Children Act 1989⁽³⁾, rules 4.11 and 4.11B of the Family Proceedings Rules 1991⁽⁴⁾, and rules 11 and 11B of the Family Proceedings Courts (Children Act 1989) Rules 1991⁽⁵⁾”; and

“(tt) data processed by the Welsh Ministers for the purposes of their functions under section 35(1) and (2) and section 36(1), (2), (4), (5) and (6) of the Children Act 2004⁽⁶⁾”.

Signed by authority of the Secretary of State

31st March 2011

McNally
Minister of State
Ministry of Justice

(3) 1989 c.41; section 7 was amended by the Criminal Justice and Court Services Act 2000 (c.43), Schedule 7, paragraph 88, the Children Act 2004 (c.31), Schedule 3, paragraph 6 and the Constitutional Reform Act 2005 (c.4), Schedule 4, paragraph 204.

(4) S.I. 1991/1247; relevant amending instruments are S.I. 2001/821, 2005/559, 2005/2922 and 2007/2187.

(5) S.I. 1991/1395; relevant amending instruments are S.I. 2001/818, 2005/585, 2005/617, 2005/2930 and 2007/2188.

(6) 2004 c.31. The functions of the National Assembly for Wales were transferred to the Welsh Ministers by the Government of Wales Act 2006 (c.32), Schedule 11, paragraph 30.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 30(3) of the Data Protection Act 1998, the Secretary of State may modify provisions in the Act relating to personal data about health or condition processed by government departments and certain other bodies from the application of the subject information provisions when compliance would be likely to prejudice the carrying out of social work.

This Order amends the Data Protection (Subject Access Modification) (Social Work) Order 2000 (S.I. 2000/415) so that the Welsh Ministers and Welsh family proceedings officers are given a partial exemption from the subject information provisions in relation to certain data processed by them. The Children and Family Court Advisory and Support Service in Wales (known as CAFCASS Cymru) was a functional division of the National Assembly for Wales, and was in error not included in Schedule 1 to the Data Protection (Subject Access Modification) (Social Work) Order 2000 when that Order was amended by the Data Protection (Subject Access Modification) (Social Work) (Amendment) Order 2005 (S.I. 2005/467). This Order therefore adds the Welsh Ministers and Welsh family proceedings officers to the list of bodies in paragraph 1 of the Schedule to the Data Protection (Subject Access Modification) (Social Work) Order 2000.