



# Data Protection Act 1998

## 1998 CHAPTER 29

### PART VI

#### MISCELLANEOUS AND GENERAL

##### *Records obtained under data subject's right of access*

#### **56 Prohibition of requirement as to production of certain records.**

- (1) A person must not, in connection with—
  - (a) the recruitment of another person as an employee,
  - (b) the continued employment of another person, or
  - (c) any contract for the provision of services to him by another person,require that other person or a third party to supply him with a relevant record or to produce a relevant record to him.
- (2) A person concerned with the provision (for payment or not) of goods, facilities or services to the public or a section of the public must not, as a condition of providing or offering to provide any goods, facilities or services to another person, require that other person or a third party to supply him with a relevant record or to produce a relevant record to him.
- (3) Subsections (1) and (2) do not apply to a person who shows—
  - (a) that the imposition of the requirement was required or authorised by or under any enactment, by any rule of law or by the order of a court, or
  - (b) that in the particular circumstances the imposition of the requirement was justified as being in the public interest.
- (4) Having regard to the provisions of Part V of the <sup>M1</sup>Police Act 1997 (certificates of criminal records etc.), the imposition of the requirement referred to in subsection (1) or (2) is not to be regarded as being justified as being in the public interest on the ground that it would assist in the prevention or detection of crime.
- (5) A person who contravenes subsection (1) or (2) is guilty of an offence.

*Status: Point in time view as at 29/05/2008.*

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- (6) In this section “a relevant record” means any record which—
- (a) has been or is to be obtained by a data subject from any data controller specified in the first column of the Table below in the exercise of the right conferred by section 7, and
  - (b) contains information relating to any matter specified in relation to that data controller in the second column,
- and includes a copy of such a record or a part of such a record.

TABLE

<i>Data controller</i>	<i>Subject-matter</i>
1. Any of the following persons—	(a) Convictions.
(a) a chief officer of police of a police force in England and Wales.	(b) Cautions.
(b) a chief constable of a police force in Scotland.	
(c) the Chief Constable of the Royal Ulster Constabulary.	
[ <sup>F1</sup> (d) the Director General of the Serious Organised Crime Agency.]	
2. The Secretary of State.	(a) Convictions.
	(b) Cautions.
	(c) His functions under [ <sup>F2</sup> section 92 of the Powers of Criminal Courts (Sentencing) Act 2000], section 205(2) or 208 of the Criminal Procedure (Scotland) Act 1995 or section 73 of the Children and Young Persons Act (Northern Ireland) 1968 in relation to any person sentenced to detention.
	(d) His functions under the Prison Act 1952, the Prisons (Scotland) Act 1989 or the Prison Act (Northern Ireland) 1953 in relation to any person imprisoned or detained.
	(e) His functions under the Social Security Contributions and Benefits Act 1992, the Social Security Administration Act 1992 or the Jobseekers Act 1995.
	(f) His functions under Part V of the Police Act 1997.
	[ <sup>F3</sup> (g) His functions under the Safeguarding Vulnerable Groups Act 2006 ] [ <sup>F4</sup> or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007].

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3. The Department of Health and Social Services for Northern Ireland.	Its functions under the Social Security Contributions and Benefits (Northern Ireland) Act 1992, the Social Security Administration (Northern Ireland) Act 1992 or the Jobseekers (Northern Ireland) Order 1995.
[ <sup>F54</sup> The Independent Barring Board	Its functions under the Safeguarding Vulnerable Groups Act 2006 ] [ <sup>F4</sup> or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007] .

[<sup>F6</sup>(6A) A record is not a relevant record to the extent that it relates, or is to relate, only to personal data falling within paragraph (e) of the definition of “data” in section 1(1).]

(7) In the Table in subsection (6)—

“caution” means a caution given to any person in England and Wales or Northern Ireland in respect of an offence which, at the time when the caution is given, is admitted;

“conviction” has the same meaning as in the <sup>M2</sup>Rehabilitation of Offenders Act 1974 or the <sup>M3</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978.

(8) The [<sup>F7</sup> Secretary of State] may by order amend—

- (a) the Table in subsection (6), and
- (b) subsection (7).

(9) For the purposes of this section a record which states that a data controller is not processing any personal data relating to a particular matter shall be taken to be a record containing information relating to that matter.

(10) In this section “employee” means an individual who—

- (a) works under a contract of employment, as defined by section 230(2) of the <sup>M4</sup>Employment Rights Act 1996, or
- (b) holds any office,

whether or not he is entitled to remuneration; and “employment” shall be construed accordingly.

#### Textual Amendments

- F1** S. 56(6) Table: para. (d) in first entry substituted (1.4.2005) for paras. (d)(e) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 59, 178, [Sch. 4 para. 112](#); S.I. 2006/378, [art. 4](#), Sch.
- F2** S. 56(6) Table: words in entry 2 substituted (25.8.2000) by [2000 c. 6](#), ss. 165, 168, [Sch. 9 para. 191](#)
- F3** S. 56(6) Table: in entry relating to the Secretary of State para. (g) inserted (19.5.2008) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), ss. 63, 65, [Sch. 9 para. 15\(2\)\(a\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2008/1320, [art. 3](#)
- F4** S. 56(6) Table: words inserted (N.I.) (29.5.2008) by [The Safeguarding Vulnerable Groups \(Northern Ireland\) Order 2007 \(S.I. 2007/1351 \(N.I. 11\)\)](#), art. 60, [Sch. 7 para. 4\(1\)](#) (with arts. 2(4), 53, 57(3), 61(4)); S.R. 2008/233, [art. 3\(c\)](#)
- F5** S. 56(6) Table: entry inserted (19.5.2008) by [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), ss. 63, 65, [Sch. 9 para. 15\(2\)\(b\)](#) (with ss. 51, 57(3), 60(4), 64(5)); S.I. 2008/1320, [art. 3](#)
- F6** S. 56(6A) inserted (1.1.2005) by [2000 c. 36](#), ss. 68(4), 87(3) (with ss. 56, 78); S.I. 2004/1909, [art. 2](#); S.I. 2004/3122, [art. 2](#)

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**F7** Words in s. 56 substituted (19.8.2003) by [The Secretary of State for Constitutional Affairs Order 2003 \(S.I. 2003/1887\)](#), art. 9, **Sch. 2 para. 9(1)(a)**

#### **Commencement Information**

**I1** S. 56 partly in force; s. 56 in force for certain purposes at Royal Assent see s. 75(2)(i); s. 56 in force for specified purposes at 3.3.2011 by [S.I. 2011/601](#), **art. 2**

#### **Marginal Citations**

**M1** 1997 c. 50.

**M2** 1974 c. 53.

**M3** [S.I. 1978/1908 \(N.I.27\)](#)

**M4** 1996 c. 18.

### **57 Avoidance of certain contractual terms relating to health records.**

- (1) Any term or condition of a contract is void in so far as it purports to require an individual—
  - (a) to supply any other person with a record to which this section applies, or with a copy of such a record or a part of such a record, or
  - (b) to produce to any other person such a record, copy or part.
- (2) This section applies to any record which—
  - (a) has been or is to be obtained by a data subject in the exercise of the right conferred by section 7, and
  - (b) consists of the information contained in any health record as defined by section 68(2).

**Status:**

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**Changes to legislation:**

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