

2000 No. 419

DATA PROTECTION

**The Data Protection (Miscellaneous Subject Access
Exemptions) Order 2000**

Made - - - - - 17th February 2000

Coming into force - - - 1st March 2000

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament:

Whereas the Secretary of State considers it necessary for the safeguarding of the interests of data subjects or the rights and freedoms of other individuals that the prohibitions or restrictions on disclosure contained in the enactments and instruments listed in the Schedule to this Order ought to prevail over section 7 of the Data Protection Act 1998(a):

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 38(1) and 67(2) of the Data Protection Act 1998, and after consultation with the Data Protection Commissioner in accordance with section 67(3) of that Act, hereby makes the following Order:

1. This Order may be cited as the Data Protection (Miscellaneous Subject Access Exemptions) Order 2000 and shall come into force on 1st March 2000.
2. Personal data consisting of information the disclosure of which is prohibited or restricted by the enactments and instruments listed in the Schedule to this Order are exempt from section 7 of the Data Protection Act 1998.

Home Office
17th February 2000

Mike O'Brien
Parliamentary Under-Secretary of State

(a) 1998 c. 29.

EXEMPTIONS FROM SECTION 7

PART I

ENACTMENTS AND INSTRUMENTS EXTENDING TO THE UNITED KINGDOM

Human fertilisation and embryology: information about the provision of treatment services, the keeping or use of gametes or embryos and whether identifiable individuals were born in consequence of treatment services.

Sections 31 and 33 of the Human Fertilisation and Embryology Act 1990(a).

PART II

ENACTMENTS AND INSTRUMENTS EXTENDING TO ENGLAND AND WALES

(a) *Adoption records and reports*

Sections 50 and 51 of the Adoption Act 1976(b).

Regulations 6 and 14 of the Adoption Agencies Regulations 1983(c), so far as they relate to records and other information in the possession of local authorities.

Rules 5, 6, 9, 17, 18, 21, 22 and 53 of the Adoption Rules 1984(d).

Rules 5, 6, 9, 17, 18, 21, 22 and 32 of the Magistrates' Courts (Adoption) Rules 1984(e).

(b) *Statement of child's special educational needs*

Regulation 19 of the Education (Special Educational Needs) Regulations 1994(f).

(c) *Parental order records and reports*

Sections 50 and 51 of the Adoption Act 1976(g) as modified by paragraphs 4(a) and (b) of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994(h) in relation to parental orders made under section 30 of the Human Fertilisation and Embryology Act 1990.

Rules 4A.5 and 4A.9 of the Family Proceedings Rules 1991(i).

Rules 21E and 21I of the Family Proceedings Courts (Children Act 1989) Rules 1991(j).

(a) 1990 c. 37. Section 33 was amended by section 1 of the Human Fertilisation and Embryology (Disclosure of Information) Act 1992 (c. 54).

(b) 1976 c. 36. Section 51 was amended by paragraph 20 of Schedule 10 to the Children Act 1989 (c. 41).

(c) S.I. 1983/1964, as amended by regulation 2 of S.I. 1997/2308 and regulation 2 of S.I. 1997/649.

(d) S.I. 1984/265, as amended by S.I. 1991/1880.

(e) S.I. 1984/611, as amended by S.I. 1989/384 (L. 7) and paragraph 4 of Schedule 2 to S.I. 1991/1991.

(f) S.I. 1994/1047.

(g) 1976 c. 36.

(h) S.I. 1994/2767.

(i) S.I. 1991/1247 as amended by S.I. 1994/2165.

(j) S.I. 1991/1395 as amended by S.I. 1994/2166.

ENACTMENTS AND INSTRUMENTS EXTENDING TO SCOTLAND

(a) Adoption records and reports

Section 45 of the Adoption (Scotland) Act 1978(a).

Regulation 23 of the Adoption Agencies (Scotland) Regulations 1996(b), so far as it relates to records and other information in the possession of local authorities.

Rule 67.3 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(c).

Rules 2.12, 2.14, 2.30 and 2.33 of the Act of Sederunt (Child Care and Maintenance Rules) 1997(d).

Regulation 8 of the Adoption Allowance (Scotland) Regulations 1996(e).

(b) Information provided by principal reporter for children's hearing

Rules 5 and 21 of the Children's Hearings (Scotland) Rules 1996(f).

(c) Record of child or young person's special educational needs

Section 60(4) of the Education (Scotland) Act 1980(g).

Proviso (bb) to regulation 7(2) of the Education (Record of Needs) (Scotland) Regulations 1982(h).

(d) Parental order records and reports

Section 45 of the Adoption (Scotland) Act 1978 as modified by paragraph 10 of Schedule 1 to the Parental Orders (Human Fertilisation and Embryology) (Scotland) Regulations 1994(i) in relation to parental orders made under section 30 of the Human Fertilisation and Embryology Act 1990.

Rules 2.47 and 2.59 of the Act of Sederunt (Child Care and Maintenance Rules) 1997.

Rules 81.3 and 81.18 of the Act of Sederunt (Rules of the Court of Session 1994) 1994(j).

PART IV

ENACTMENTS AND INSTRUMENTS EXTENDING TO NORTHERN IRELAND

(a) Adoption records and reports

Articles 50 and 54 of the Adoption (Northern Ireland) Act 1987(k).

Rule 53 of Order 84 of the Rules of the Supreme Court (Northern Ireland) 1980(l).

Rule 22 of the County Court (Adoption) Rules (Northern Ireland) 1980(m).

Rule 32 of Order 50 of the County Court Rules (Northern Ireland) 1981(n).

(b) Statement of child's special educational needs

Regulation 17 of the Education (Special Educational Needs) Regulations (Northern Ireland) 1997(o).

(a) 1978 c. 28. Section 45 was amended by paragraph 41 of Schedule 10 to the Children Act 1989 (c. 41) and paragraph 22 of Schedule 2 to the Children (Scotland) Act 1995 (c. 36).

(b) S.I. 1996/3266 (S.254).

(c) S.I. 1994/1443.

(d) S.I. 1997/291 (S.19).

(e) S.I. 1996/3257.

(f) S.I. 1996/3261.

(g) 1980 c. 44. Section 60 was amended by section 4 of the Education (Scotland) Act 1981 (c. 58).

(h) S.I. 1982/1222.

(i) S.I. 1994/1443, as amended by S.I. 1994/2804 (S.141).

(j) S.I. 1994/2806 (S.143).

(k) S.I. 1987/2203 N.I. 22. Article 54 was amended by paragraph 158 of Schedule 9 to S.I. 1995/755 (N.I. 2).

(l) S.R. (N.I.) 1980 No. 346 as amended by S.R. (N.I.) 1989 No. 343.

(m) S.R. (N.I.) 1981 No. 227.

(n) S.R. (N.I.) 1981 No. 225 as amended by S.R. (N.I.) 1989 No. 307.

(o) S.R. (N.I.) 1997 No. 327.

Articles 50 and 54 of the Adoption (Northern Ireland) Order 1987 as modified by paragraph 5(a) and (e) of Schedule 2 to the Parental Orders (Human Fertilisation and Embryology) Regulations 1994 in respect of parental orders made under section 30 of the Human Fertilisation and Embryology Act 1990.

Rules 4, 5 and 16 of Order 84A of the Rules of the Supreme Court (Northern Ireland) 1980(a).

Rules 3, 4 and 15 of Order 50A of the County Court Rules (Northern Ireland) 1981(b).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order exempts from section 7 of the Data Protection Act 1998, which entitles individuals to gain access to personal data held about them, personal data the disclosure of which is prohibited or restricted by certain enactments and subordinate instruments in the interests of safeguarding the interests of the data subject himself or the rights and freedoms of some other individual (article 2).

The personal data which are exempted by the Order concern: human fertilisation and embryology information in the United Kingdom; information contained in adoption and parental order records and reports, and statements and records of the special educational needs of children in England or Wales, Scotland and Northern Ireland; and, in Scotland only, information provided by reporters for the purposes of a children's hearing (the Schedule).

This Order contributes to the implementation of Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and on the free movement of such data.

A Regulatory Impact Assessment was prepared for the Data Protection Bill as it was then and the statutory instruments to be made under it, and was placed in the libraries of both Houses of Parliament. The Regulatory Impact Assessment is now available on the internet at www.homeoffice.gov.uk. Alternatively, copies can be obtained by post from the Home Office, LGDP Unit, 50 Queen Anne's Gate, London SW1H 9AT.

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- (a) S.R. (N.I.) 1980 No. 346, as amended by S.R. (N.I.) 1995 No. 2.
(b) S.R. (N.I.) 1981 No. 225, as amended by S.R. (N.I.) 1995 No. 48.

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