

SCHEDULES

SCHEDULE 12

Section 53

SUPPLY OF INFORMATION ETC

Supply of information etc

- 1 (1) A relevant enforcer may give notice in writing to any person requiring the person to provide a relevant enforcer, or a person authorised by a relevant enforcer, with any information which—
- (a) is identified in the notice, and
 - (b) is reasonably required by a relevant enforcer for the purposes of—
 - (i) determining whether electronic material has been published in contravention of section 41, or
 - (ii) making contact with the promoter of the material or the person on behalf of whom the material has been published (and who is not the promoter).
- (2) A relevant enforcer may give notice in writing to any person requiring the person to provide a relevant enforcer, or a person authorised by a relevant enforcer, with a copy of any electronic material which—
- (a) is identified in the notice, and
 - (b) is reasonably required by a relevant enforcer for the purposes of determining whether electronic material has been published in contravention of section 41.
- (3) A person to whom a notice is given under this paragraph must comply with it within such reasonable time as is specified in the notice.
- (4) A relevant enforcer may by notice in writing withdraw or vary a notice under this paragraph at any time.

Court order for disclosure of information etc

- 2 (1) This paragraph applies if a relevant enforcer has given a notice under paragraph 1(1) requiring any information to be provided.
- (2) The High Court or (in Scotland) the Court of Session may make an information disclosure order against a person (“the respondent”) if satisfied on an application by a relevant enforcer that there is information identified in the notice under paragraph 1(1) which—
- (a) has not been provided as required by the notice (either within the time specified in the notice for compliance or subsequently),
 - (b) is reasonably required by a relevant enforcer for a purpose within paragraph 1(1)(b), and
 - (c) the respondent is able to provide.

Status: This is the original version (as it was originally enacted).

- (3) An information disclosure order is an order requiring the respondent to provide to a relevant enforcer, within such time as is specified in the order, such information falling within sub-paragraph (2)(b) as is identified in the order.
- 3 (1) This paragraph applies if a relevant enforcer has given a notice under paragraph 1(2) requiring any electronic material to be provided.
- (2) The High Court or (in Scotland) the Court of Session may make an electronic material disclosure order against a person (“the respondent”) if satisfied on an application by a relevant enforcer that there is electronic material referred to in the notice under paragraph 1(2) a copy of which—
- (a) has not been provided as required by the notice (either within the time specified in the notice for compliance or subsequently),
 - (b) is reasonably required by a relevant enforcer for the purposes of determining whether electronic material has been published in contravention of section 41, and
 - (c) the respondent is able to provide.
- (3) An electronic material disclosure order is an order requiring the respondent to provide to a relevant enforcer, within such time as is specified in the order, a copy of such electronic material falling within sub-paragraph (2)(b) as is identified in the order.

Power to make copies and records

- 4 A relevant enforcer, or a person authorised by a relevant enforcer, may make copies or records of any information or material provided under this Schedule.

Authorisation to be in writing

- 5 An authorisation of a person by a relevant enforcer under this Schedule must be in writing.

Legal professional privilege

- 6 Nothing in this Schedule requires a person to provide anything in respect of which a claim to legal professional privilege (or in Scotland to confidentiality of communications) could be maintained in legal proceedings.

Admissibility of information

- 7 (1) Information provided by a person (“P”) in compliance with a requirement imposed under this Schedule is admissible in evidence in any proceedings (as long as it also complies with any requirements governing the admissibility of evidence in the circumstances in question).
- (2) But in criminal proceedings in which P is charged with an offence other than one to which sub-paragraph (3) applies or in proceedings within sub-paragraph (4) to which both the Commission and P are parties—
- (a) no evidence relating to the information is admissible against P, and
 - (b) no question relating to the information may be asked on behalf of the prosecution or (as the case may be) the Commission in cross-examination of P,

unless evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of P.

- (3) This sub-paragraph applies to—
- (a) an offence under section 5 of the Perjury Act 1911 (false statements made otherwise than on oath);
 - (b) an offence under section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath);
 - (c) an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statements made otherwise than on oath).
- (4) Proceedings are within this sub-paragraph if they arise out of the exercise by the Commission of any of their powers under Schedule 19C to PPERA.

Application of restrictions on disclosure

- 8 (1) A disclosure of information pursuant to a requirement under this Schedule 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) A duty imposed by virtue of this Schedule does not require a person to disclose information if to do so would contravene the data protection legislation (but in determining whether the disclosure would do so, the duty imposed by virtue of this Schedule is to be taken into account).
- (3) In sub-paragraph (2) “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

Meaning of “relevant enforcer”

- 9 In this Schedule “relevant enforcer” means the Electoral Commission or a constable.