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DRAFT STATUTORY INSTRUMENTS

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**2023 No.**

The Transport (Scotland) Act 2019 (Consequential Provisions and Modifications) Order 2023

PART 3

Bus Services and Ticketing Arrangements and Schemes

CHAPTER 1

Enforcement of the Competition Test

**Disclosure of information**

12.—(1) No information which—

- (a) has been obtained by the CMA in connection with the CMA’s functions under this Chapter, and
- (b) relates to the affairs of any individual or to any particular business,

is to be disclosed during the lifetime of that individual or while that business continues to be carried on, unless the condition mentioned in paragraph (2) is satisfied.

(2) The condition is that consent to the disclosure has been obtained from—

- (a) the person from whom the information was obtained, and
- (b) if different, the individual to whose affairs the information relates or the person for the time being carrying on the business to which the information relates.

(3) Paragraph (1) does not apply to a disclosure of information—

- (a) made for the purpose of facilitating the performance of any function of—
  - (i) the CMA,
  - (ii) the traffic commissioner<sup>(1)</sup>,
  - (iii) the Office of Rail and Road<sup>(2)</sup>,
- (b) made for the purpose of criminal proceedings in any part of the United Kingdom or in connection with the investigation of a criminal offence triable in any part of the United Kingdom, or
- (c) made in compliance with the order of a court or tribunal.

(4) If information is disclosed to the public in circumstances in which the disclosure does not contravene paragraph (1), that paragraph does not prevent its further disclosure by any person.

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(1) See section 48 of the Transport (Scotland) Act 2001 ([asp 2](#)) for the meaning of “the traffic commissioner”. There are amendments to section 48 which are not relevant to this definition.

(2) Established by the Railways and Transport Safety Act 2003 ([c. 20](#)), section 15. Section 15 was relevantly amended by [S.I. 2015/1682](#).

(5) A person who contravenes this article is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale<sup>(3)</sup>.

(6) Nothing in this article authorises the making of a disclosure which would contravene the data protection legislation or any other enactment relating to the disclosure of information, or give rise to the commission of an offence (but the power is to be taken into account in determining whether the disclosure or use would contravene that legislation).

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(3) See section 113(9A) to (10) of the Scotland Act 1998 (c. 46) for the limits on criminal penalties. Section 113 was relevantly amended by section 39(2) of the Scotland Act 2012 (c. 11).