

SCHEDULES

SCHEDULE 1

Section 2(1).

THE DATA PROTECTION PRINCIPLES

PART I

THE PRINCIPLES

Personal data held by data users

- 1 The information to be contained in personal data shall be obtained, and personal data shall be processed, fairly and lawfully.
- 2 Personal data shall be held only for one or more specified and lawful purposes.
- 3 Personal data held for any purpose or purposes shall not be used or disclosed in any manner incompatible with that purpose or those purposes.
- 4 Personal data held for any purpose or purposes shall be adequate, relevant and not excessive in relation to that purpose or those purposes.
- 5 Personal data shall be accurate and, where necessary, kept up to date.
- 6 Personal data held for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.
- 7 An individual shall be entitled—
 - (a) at reasonable intervals and without undue delay or expense—
 - (i) to be informed by any data user whether he holds personal data of which that individual is the subject; and
 - (ii) to access to any such data held by a data user ; and
 - (b) where appropriate, to have such data corrected or erased.

Personal data held by data users or in respect of which services are provided by persons carrying on computer bureaux

- 8 Appropriate security measures shall be taken against unauthorised access to, or alteration, disclosure or destruction of, personal data and against accidental loss or destruction of personal data.

Status: This is the original version (as it was originally enacted).

PART II

INTERPRETATION

The first principle

- 1 (1) Subject to sub-paragraph (2) below, in determining whether information was obtained fairly regard shall be had to the method by which it was obtained, including in particular whether any person from whom it was obtained was deceived or misled as to the purpose or purposes for which it is to be held, used or disclosed.
- (2) Information shall in any event be treated as obtained fairly if it is obtained from a person who—
- (a) is authorised by or under any enactment to supply it; or
 - (b) is required to supply it by or under any enactment or by any convention or other instrument imposing an international obligation on the United Kingdom;
- and in determining whether information was obtained fairly there shall be disregarded any disclosure of the information which is authorised or required by or under any enactment or required by any such convention or other instrument as aforesaid.

The second principle

- 2 Personal data shall not be treated as held for a specified purpose unless that purpose is described in particulars registered under this Act in relation to the data.

The third principle

- 3 Personal data shall not be treated as used or disclosed in contravention of this principle unless—
- (a) used otherwise than for a purpose of a description registered under this Act in relation to the data ; or
 - (b) disclosed otherwise than to a person of a description so registered.

The fifth principle

- 4 Any question whether or not personal data are accurate shall be determined as for the purposes of section 22 of this Act but, in the case of such data as are mentioned in subsection (2) of that section, this principle shall not be regarded as having been contravened by reason of any inaccuracy in the information there mentioned if the requirements specified in that subsection have been complied with.

The seventh principle

- 5 (1) Paragraph (a) of this principle shall not be construed as conferring any rights inconsistent with section 21 of this Act.
- (2) In determining whether access to personal data is sought at reasonable intervals regard shall be had to the nature of the data, the purpose for which the data are held and the frequency with which the data are altered.

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

- (3) The correction or erasure of personal data is appropriate only where necessary for ensuring compliance with the other data protection principles.

The eighth principle

- 6 Regard shall be had—
- (a) to the nature of the personal data and the harm that would result from such access, alteration, disclosure, loss or destruction as are mentioned in this principle ; and
 - (b) to the place where the personal data are stored, to security measures programmed into the relevant equipment and to measures taken for ensuring the reliability of staff having access to the data.

Use for historical, statistical or research purposes

- 7 Where personal data are held for historical, statistical or research purposes and not used in such a way that damage or distress is, or is likely to be, caused to any data subject—
- (a) the information contained in the data shall not be regarded for the purposes of the first principle as obtained unfairly by reason only that its use for any such purpose was not disclosed when it was obtained ; and
 - (b) the data may, notwithstanding the sixth principle, be kept indefinitely.

SCHEDULE 2

Section 3(6).

THE DATA PROTECTION REGISTRAR AND THE DATA PROTECTION TRIBUNAL

PART I

THE REGISTRAR

Status

- 1 (1) The Registrar shall be a corporation sole by the name of " The Data Protection Registrar ".
- (2) Except as provided in section 17(2) of this Act, the Registrar and his officers and servants shall not be regarded as servants or agents of the Crown.

Tenure of office

- 2 (1) Subject to the provisions of this paragraph, the Registrar shall hold office for five years.
- (2) The Registrar may be relieved of his office by Her Majesty at his own request
- (3) The Registrar may be removed from office by Her Majesty in pursuance of an Address from both Houses of Parliament.

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

- (4) The Registrar shall in any case vacate his office on completing the year of service in which he attains the age of sixty-five years.
- (5) Subject to sub-paragraph (4) above, a person who ceases to be Registrar on the expiration of his term of office shall be eligible for re-appointment.

Salary etc.

- 3 (1) There shall be paid—
 - (a) to the Registrar such salary, and
 - (b) to or in respect of the Registrar such pension,
 as may be specified by a resolution of the House of Commons.
- (2) A resolution for the purposes of this paragraph may either specify the salary or pension or provide that it shall be the same as that payable to, or to or in respect of, a person employed in a specified office under, or in a specified capacity in the service of, the Crown.
- (3) A resolution for the purposes of this paragraph may take effect from the date on which it is passed or from any earlier or later date specified in the resolution.
- (4) Any salary or pension payable under this paragraph shall be charged on and issued out of the Consolidated Fund.
- (5) In this paragraph "pension" includes an allowance or gratuity and any reference to the payment of a pension includes a reference to the making of payments towards the provision of a pension.

Officers and servants

- 4 (1) The Registrar—
 - (a) shall appoint a deputy registrar ; and
 - (b) may appoint such number of other officers and servants as he may determine.
- (2) The remuneration and other conditions of service of the persons appointed under this paragraph shall be determined by the Registrar.
- (3) The Registrar may pay such pensions, allowances or gratuities to or in respect of the persons appointed under this paragraph, or make such payments towards the provision of such pensions, allowances or gratuities, as he may determine.
- (4) The references in sub-paragraph (3) above to pensions, allowances or gratuities to or in respect of the persons appointed under this paragraph include references to pensions, allowances or gratuities by way of compensation to or in respect of any of those persons who suffer loss of office or employment.
- (5) Any determination under sub-paragraph (1)(b), (2) or (3) above shall require the approval of the Secretary of State given with the consent of the Treasury.
- 5 (1) The deputy registrar shall perform the functions conferred by this Act on the Registrar during any vacancy in that office or at any time when the Registrar is for any reason unable to act.
- (2) Without prejudice to sub-paragraph (1) above, any functions of the Registrar under this Act may, to the extent authorised by him, be performed by any of his officers.

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Receipts and expenses

- 6 (1) All fees and other sums received by the Registrar in the exercise of his functions under this Act shall be paid by him into the Consolidated Fund.
- (2) The Secretary of State shall out of moneys provided by Parliament pay to the Registrar such sums towards his expenses as the Secretary of State may with the approval of the Treasury determine.

Accounts

- 7 (1) It shall be the duty of the Registrar—
- (a) to keep proper accounts and other records in relation to the accounts;
 - (b) to prepare in respect of each financial year a statement of account in such form as the Secretary of State may direct with the approval of the Treasury ; and
 - (c) to send copies of that statement to the Comptroller and Auditor General on or before 31st August next following the end of the year to which the statement relates or on or before such earlier date after the end of that year as the Treasury may direct.
- (2) The Comptroller and Auditor General shall examine and certify any statement sent to him under this paragraph and lay copies of it together with his report thereon before each House of Parliament
- (3) In this paragraph "financial year" means a period of twelve months beginning with 1st April.

PART II

THE TRIBUNAL

Tenure of office

- 8 (1) A member of the Tribunal shall hold and vacate his office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.
- (2) Any member of the Tribunal may at any time resign his office by notice in writing to the Lord Chancellor (in the case of the chairman or a deputy chairman) or to the Secretary of State (in the case of any other member).

Salary etc.

- 9 The Secretary of State shall pay to the members of the Tribunal out of moneys provided by Parliament such remuneration and allowances as he may with the approval of the Treasury determine.

Officers and servants

- 10 The Secretary of State may provide the Tribunal with such officers and servants as he thinks necessary for the proper discharge of its functions.

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Expenses

- 11 Such expenses of the Tribunal as the Secretary of State may with the approval of the Treasury determine shall be defrayed by the Secretary of State out of moneys provided by Parliament.

PART III

GENERAL

Parliamentary disqualification

- 12 (1) In Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified) there shall be inserted at the appropriate place "The Data Protection Tribunal".
- (2) In Part III of that Schedule (disqualifying offices) there shall be inserted at the appropriate place "The Data Protection Registrar".
- (3) Corresponding amendments shall be made in Parts II and III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

Supervision by Council on Tribunals

- 13 The Tribunals and Inquiries Act 1971 shall be amended as follows—
- (a) in section 8(2) after " paragraph" there shall be inserted " 5A ";
- (b) in section 19(4) after " 46 " there shall be inserted the words " or the Data Protection Registrar referred to in paragraph 5A ";
- (c) in Schedule 1, after paragraph 5 there shall be inserted—

“Data protection.	5A. (a) The Data Protection Registrar ; (b) The Data Protection Tribunal.”
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Public records

- 14 In Part II of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 there shall be inserted at the appropriate place " the Data Protection Registrar " ; and after paragraph 4(1)(n) of that Schedule there shall be inserted—
- “(nn) records of the Data Protection Tribunal;”.

SCHEDULE 3

Section 13(4).

APPEAL PROCEEDINGS

Hearing of appeals

- 1 For the purpose of hearing and determining appeals or any matter preliminary or incidental to an appeal the Tribunal shall sit at such times and in such places as the chairman or a deputy chairman may direct and may sit in two or more divisions.

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- 2 (1) Subject to any rules made under paragraph 4 below, the Tribunal shall be duly constituted for an appeal under section 13(1) of this Act if it consists of—
- (a) the chairman or a deputy chairman (who shall preside) ; and
 - (b) an equal number of the members appointed respectively in accordance with paragraphs (a) and (b) of section 3(5) of this Act.
- (2) The members who are to constitute the Tribunal in accordance with sub-paragraph (1) above shall be nominated by the chairman or, if he is for any reason unable to act, by a deputy chairman.
- (3) The determination of any question before the Tribunal when constituted in accordance with this paragraph shall be according to the opinion of the majority of the members hearing the appeal.
- 3 Subject to any rules made under paragraph 4 below, the jurisdiction of the Tribunal in respect of an appeal under section 13(2) or (3) of this Act shall be exercised *ex parte* by the chairman or a deputy chairman sitting alone.

Rules of procedure

- 4 (1) The Secretary of State may make rules for regulating the exercise of the rights of appeal conferred by section 13 of this Act and the practice and procedure of the Tribunal.
- (2) Without prejudice to the generality of sub-paragraph (1) above, rules under this paragraph may in particular make provision—
- (a) with respect to the period within which an appeal can be brought and the burden of proof on an appeal;
 - (b) for the summoning of witnesses and the administration of oaths;
 - (c) for securing the production of documents and data material;
 - (d) for the inspection, examination, operation and testing of data equipment and the testing of data material;
 - (e) for the hearing of an appeal wholly or partly in camera ;
 - (f) for hearing an appeal in the absence of the appellant or for determining an appeal without a hearing ;
 - (g) for enabling any matter preliminary or incidental to an appeal to be dealt with by the chairman or a deputy chairman ;
 - (h) for the awarding of costs ;
 - (i) for the publication of reports of the Tribunal's decisions ; and
 - (j) for conferring on the Tribunal such ancillary powers as the Secretary of State thinks necessary for the proper discharge of its functions.

Obstruction etc.

- 5 (1) If any person is guilty of any act or omission in relation to proceedings before the Tribunal which, if those proceedings were proceedings before a court having power to commit for contempt, would constitute contempt of court, the Tribunal may certify the offence to the High Court or, in Scotland, the Court of Session.
- (2) Where an offence is so certified, the court may inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal

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with him in any manner in which it could deal with him if he had committed the like offence in relation to the court.

SCHEDULE 4

Section 16.

POWERS OF ENTRY AND INSPECTION

Issue of warrants

1 If a circuit judge is satisfied by information on oath supplied by the Registrar that there are reasonable grounds for suspecting—

- (a) that an offence under this Act has been or is being committed ; or
- (b) that any of the data protection principles have been or are being contravened by a registered person,

and that evidence of the commission of the offence or of the contravention is to be found on any premises specified in the information, he may, subject to paragraph 2 below, grant a warrant authorising the Registrar or any of his officers or servants at any time within seven days of the date of the warrant to enter those premises, to search them, to inspect, examine, operate and test any data equipment found there and to inspect and seize any documents or other material found there which may be such evidence as aforesaid.

2 A judge shall not issue a warrant under this Schedule unless he is satisfied—

- (a) that the Registrar has given seven days' notice in writing to the occupier of the premises in question demanding access to the premises ;
- (b) that access was demanded at a reasonable hour and was unreasonably refused ; and
- (c) that the occupier has, after the refusal, been notified by the Registrar of the application for the warrant and has had an opportunity of being heard by the judge on the question whether or not it should be issued ;

but the foregoing provisions of this paragraph shall not apply if the judge is satisfied that the case is one of urgency or that compliance with those provisions would defeat the object of the entry.

3 A judge who issues a warrant under this Schedule shall also issue two copies of it and certify them clearly as copies.

Execution of warrants

4 A person executing a warrant issued under this Schedule may use such reasonable force as may be necessary.

5 A warrant issued under this Schedule shall be executed at a reasonable hour unless it appears to the person executing it that there are grounds for suspecting that the evidence in question would not be found if it were so executed.

6 If the person who occupies the premises in respect of which a warrant is issued under this Schedule is present when the warrant is executed, he shall be shown the warrant and supplied with a copy of it; and if that person is not present a copy of the warrant shall be left in a prominent place on the premises.

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

- 7 (1) A person seizing anything in pursuance of a warrant under this Schedule shall give a receipt for it if asked to do so.
- (2) Anything so seized may be retained for so long as is necessary in all the circumstances but the person in occupation of the premises in question shall be given a copy of anything that is seized if he so requests and the person executing the warrant considers that it can be done without undue delay.

Matters exempt from inspection and seizure

- 8 The powers of inspection and seizure conferred by a warrant issued under this Schedule shall not be exercisable in respect of personal data which are exempt from Part II of this Act.
- 9 (1) Subject to the provisions of this paragraph, the powers of inspection and seizure conferred by a warrant issued under this Schedule shall not be exercisable in respect of—
- (a) any communication between a professional legal adviser and his client in connection with the giving of legal advice to the client with respect to his obligations, liabilities or rights under this Act; or
 - (b) any communication between a professional legal adviser and his client, or between such an adviser or his client and any other person, made in connection with or in contemplation of proceedings under or arising out of this Act (including proceedings before the Tribunal) and for the purposes of such proceedings.
- (2) Sub-paragraph (1) above applies also to—
- (a) any copy or other record of any such communication as is there mentioned ; and
 - (b) any document or article enclosed with or referred to in any such communication if made in connection with the giving of any advice or, as the case may be, in connection with or in contemplation of and for the purposes of such proceedings as are there mentioned.
- (3) This paragraph does not apply to anything in the possession of any person other than the professional legal adviser or his client or to anything held with the intention of furthering a criminal purpose.
- (4) In this paragraph references to the client of a professional legal adviser include references to any person representing such a client.
- 10 If the person in occupation of any premises in respect of which a warrant is issued under this Schedule objects to the inspection or seizure under the warrant of any material on the grounds that it consists partly of matters in respect of which those powers are not exercisable, he shall, if the person executing the warrant so requests, furnish that person with a copy of so much of the material as is not exempt from those powers.

Return of warrants

- 11 A warrant issued under this Schedule shall be returned to the court from which it was issued—
- (a) after being executed ; or
 - (b) if not executed within the time authorised for its execution ;

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and the person by whom any such warrant is executed shall make an endorsement on it stating what powers have been exercised by him under the warrant.

Offences

- 12 Any person who—
- (a) intentionally obstructs a person in the execution of a warrant issued under this Schedule ; or
 - (b) fails without reasonable excuse to give any person executing such a warrant such assistance as he may reasonably require for the execution of the warrant,
- shall be guilty of an offence.

Vessels, vehicles etc.

- 13 In this Schedule " premises " includes any vessel, vehicle, aircraft or hovercraft, and references to the occupier of any premises include references to the person in charge of any vessel, vehicle, aircraft or hovercraft.

Scotland and Northern Ireland

- 14 In the application of this Schedule to Scotland, for any reference to a circuit judge there shall be substituted a reference to the sheriff, for any reference to information on oath there shall be substituted a reference to evidence on oath and for the reference to the court from which the warrant was issued there shall be substituted a reference to the sheriff clerk.
- 15 In the application of this Schedule to Northern Ireland, for any reference to a circuit judge there shall be substituted a reference to a county court judge and for any reference to information on oath there shall be substituted a reference to a complaint on oath.