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*Status: Point in time view as at 06/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Coroners and Justice Act 2009, Part 6. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 20

#### AMENDMENTS OF THE DATA PROTECTION ACT 1998 (C. 29)

##### PART 6

###### WARRANT FOR ENTRY AND INSPECTION

- 14 (1) Schedule 9 to that Act (powers of entry and inspection) is amended as follows.
- (2) After sub-paragraph (1) of paragraph 1 insert—
- “(1A) Sub-paragraph (1B) applies if a circuit judge or a District Judge (Magistrates' Courts) is satisfied by information on oath supplied by the Commissioner that a data controller has failed to comply with a requirement imposed by an assessment notice.
- (1B) The judge may, for the purpose of enabling the Commissioner to determine whether the data controller has complied or is complying with the data protection principles, grant a warrant to the Commissioner in relation to any premises that were specified in the assessment notice; but this is subject to sub-paragraph (2) and paragraph 2.”
- (3) In sub-paragraph (3) of that paragraph—
- (a) for “sub-paragraph (1)” substitute “ this Schedule ”, and
  - (b) for the words from “to enter” to the end substitute “—
    - (a) to enter the premises;
    - (b) to search the premises;
    - (c) to inspect, examine, operate and test any equipment found on the premises which is used or intended to be used for the processing of personal data;
    - (d) to inspect and seize any documents or other material found on the premises which—
      - (i) in the case of a warrant issued under sub-paragraph (1), may be such evidence as is mentioned in that paragraph;
      - (ii) in the case of a warrant issued under sub-paragraph (1B), may enable the Commissioner to determine whether the data controller has complied or is complying with the data protection principles;
    - (e) to require any person on the premises to provide an explanation of any document or other material found on the premises;
    - (f) to require any person on the premises to provide such other information as may reasonably be required for the purpose

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of determining whether the data controller has contravened, or is contravening, the data protection principles.”

(4) After sub-paragraph (1) of paragraph 2 insert—

“(1A) In determining whether the Commissioner has given an occupier the seven days' notice referred to in sub-paragraph (1)(a) any assessment notice served on the occupier is to be disregarded.”

(5) In paragraph 5 for “evidence in question would not be found” substitute “ object of the warrant would be defeated ”.

(6) In paragraph 12, at the end of paragraph (b) insert—

“(c) makes a statement in response to a requirement under paragraph (e) or (f) of paragraph 1(3) which that person knows to be false in a material respect, or

(d) recklessly makes a statement in response to such a requirement which is false in a material respect.”.

(7) After paragraph 15 add—

*“Self-incrimination*

16 An explanation given, or information provided, by a person in response to a requirement under paragraph (e) or (f) of paragraph 1(3) may only be used in evidence against that person—

(a) on a prosecution for an offence under—

(i) paragraph 12,

(ii) section 5 of the Perjury Act 1911 (false statements made otherwise than on oath),

(iii) section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made otherwise than on oath), or

(iv) Article 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements), or

(b) on a prosecution for any other offence where—

(i) in giving evidence that person makes a statement inconsistent with that explanation or information, and

(ii) evidence relating to that explanation or information is adduced, or a question relating to it is asked, by that person or on that person's behalf.”

**Commencement Information**

**II** Sch. 20 para. 14 in force at 6.4.2010 by S.I. 2010/816, art. 2, Sch. para. 19

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