

SCHEDULES

SCHEDULE 16

DEALING NON-CUSTODIALLY WITH OFFENDERS

PART 7

INFORMATION TO ENABLE A COURT TO DEAL WITH AN OFFENDER

Power to disclose information

- 29 (1) The Secretary of State or a Northern Ireland Department, or a person providing services to the Secretary of State or a Northern Ireland Department, may disclose social security information to a relevant person.
- (2) Her Majesty's Revenue and Customs, or a person providing services to the Commissioners for Her Majesty's Revenue and Customs, may disclose finances information to a relevant person.
- (3) The disclosure authorised by sub-paragraph (1) or (2) is disclosure of the information concerned for use by a court that, in connection with dealing with a person ("the defendant") for an offence, is inquiring into or determining the defendant's financial circumstances.
- (4) Sub-paragraphs (1) and (2) do not authorise disclosure in a particular case at a time when the defendant is under 18.
- (5) Information disclosed to a relevant person under sub-paragraph (1) or (2) or paragraph (a)(ii)—
- (a) must not be further disclosed by the relevant person except—
 - (i) to a court that, in connection with dealing with the defendant for the offence, is inquiring into or determining the defendant's financial circumstances, or
 - (ii) to another relevant person who wants social security information or finances information in order that it can be put before a court that, in connection with dealing with the defendant for the offence, is inquiring into or determining the defendant's financial circumstances, and
 - (b) must not be used by the relevant person otherwise than for the purpose of disclosing it as mentioned in paragraph (a)(i) or (ii).
- (6) Sub-paragraphs (1), (2) and (5)(a) not only authorise disclosure after conviction of the defendant but also authorise disclosure at any time after the defendant is first charged with the offence.
- (7) Sub-paragraph (5) does not prohibit—

Status: This is the original version (as it was originally enacted).

- (a) disclosure to the defendant, or to a person representing the defendant in any proceedings in connection with the offence;
 - (b) disclosure or use of information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it;
 - (c) disclosure or use of information which has previously been disclosed to the public with lawful authority;
 - (d) disclosure or use of information so far as necessary to comply with—
 - (i) an order of a court,
 - (ii) an order of a tribunal established by or under an Act, or
 - (iii) a duty imposed by or under an Act.
- (8) In sub-paragraph (7) “court” means any court, but elsewhere in this paragraph “court” means—
- (a) a magistrates’ court, or the Crown Court, in England and Wales,
 - (b) the Court Martial, the Service Civilian Court or the Summary Appeal Court, or
 - (c) any court hearing an appeal (including an appeal by case stated) from a court within paragraph (a) or (b).
- (9) In this paragraph—
- “finances information” means information which—
- (a) is about a person’s income, gains or capital, and
 - (b) is held—
 - (i) by Her Majesty’s Revenue and Customs, or
 - (ii) by a person providing services to the Commissioners for Her Majesty’s Revenue and Customs in connection with the provision of those services,
- or information which is held with information so held;
- “relevant person” means—
- (a) a person who is appointed by the Lord Chancellor under section 2(1) of the Courts Act 2003 or provided under a contract made by virtue of section 2(4) of that Act,
 - (b) a person who is a member of or on the staff of the Service Prosecuting Authority, or
 - (c) a person not within paragraph (b) who is, or who is assisting, a person engaged to represent the Service Prosecuting Authority in proceedings before a court;
- “Service Prosecuting Authority” means—
- (a) the Director of Service Prosecutions, and
 - (b) the persons appointed under section 365 of the Armed Forces Act 2006 (prosecuting officers);
- “social security information” means information which is held for the purposes of functions relating to social security—
- (a) by the Secretary of State or a Northern Ireland Department, or
 - (b) by a person providing services to the Secretary of State, or a Northern Ireland Department, in connection with the provision of those services,
- or information which is held with information so held.

- (10) The reference in sub-paragraph (9) to functions relating to social security includes a reference to functions relating to any of the matters listed in section 127(8) of the Welfare Reform Act 2012 (statutory payments and maternity allowances).

Offence where information wrongly used or disclosed

- 30 (1) It is an offence for a person to disclose or use information in contravention of paragraph 29(5).
- (2) It is a defence for a person charged with an offence under sub-paragraph (1) to prove that the person reasonably believed that the disclosure or use concerned was lawful.
- (3) A person guilty of an offence under sub-paragraph (1) is liable—
- (a) on conviction on indictment—
 - (i) to imprisonment for a term not exceeding 2 years, or
 - (ii) to a fine, or
 - (iii) to both;
 - (b) on summary conviction—
 - (i) to imprisonment for a period not exceeding 12 months, or
 - (ii) to a fine not exceeding the statutory maximum, or
 - (iii) to both.
- (4) Sub-paragraph (3)(b) applies—
- (a) in England and Wales in relation to offences committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (general limit on power of magistrates' courts to impose imprisonment), and
 - (b) in Northern Ireland,
- as if the reference to 12 months were a reference to 6 months.
- (5) A prosecution for an offence under sub-paragraph (1)—
- (a) may be instituted in England and Wales only by or with the consent of the Director of Public Prosecutions, and
 - (b) may be instituted in Northern Ireland only by or with the consent of the Director of Public Prosecutions for Northern Ireland.