



Digital Economy Act 2017

2017 CHAPTER 30

PART 5

DIGITAL GOVERNMENT

CHAPTER 1

PUBLIC SERVICE DELIVERY

Modifications etc. (not altering text)

- C1** Pt. 5 Ch. 1: functions cease to be exercisable concurrently (18.5.2018) by virtue of [The Transfer of Functions \(Digital Government\) Order 2018 \(S.I. 2018/526\)](#), arts. 1(2), 2 (with arts. 4, 5)
- C2** Pt. 5 Ch. 1: functions made exercisable concurrently (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), 2 (with art. 5)

35 Disclosure of information to improve public service delivery

- (1) A specified person may disclose information held by the person in connection with any of the person's functions to another specified person for the purposes of an objective which is a specified objective in relation to each of those persons.
- (2) In this section “specified person” means a person specified, or of a description specified, in Schedule 4.
- (3) The appropriate national authority may by regulations amend Schedule 4 so as to add, remove or modify an entry relating to a person or description of person.
- (4) Regulations under subsection (3) may add an entry relating to a person or a description of person to Schedule 4 only if—
 - (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

- (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (5) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (6) In determining whether to make regulations under subsection (3) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
 - (b) in the case of regulations which remove a person from Schedule 4 whether that person, or any person providing services to that person, has had regard to the code of practice under section 43 as required by that section.
- (7) In this section “specified objective”, in relation to a specified person, means an objective specified in relation to that specified person in regulations made by the appropriate national authority.
- (8) An objective may be specified by regulations under subsection (7) only if it complies with the following conditions.
- (9) The first condition is that the objective has as its purpose—
- (a) the improvement or targeting of a public service provided to individuals or households, or
 - (b) the facilitation of the provision of a benefit (whether or not financial) to individuals or households.
- (10) The second condition is that the objective has as its purpose the improvement of the well-being of individuals or households.
- (11) The reference in subsection (10) to the well-being of individuals or households includes—
- (a) their physical and mental health and emotional well-being,
 - (b) the contribution made by them to society, and
 - (c) their social and economic well-being.
- (12) The third condition is that the objective has as its purpose the supporting of—
- (a) the delivery of a specified person's functions, or
 - (b) the administration, monitoring or enforcement of a specified person's functions.

Commencement Information

- I1** S. 35 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765, reg. 3\(c\)](#)
- I2** S. 35 in force at 9.3.2018 for specified purposes by [S.I. 2018/342, reg. 2\(a\)](#)
- I3** S. 35 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(a\)](#)
- I4** S. 35 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382, reg. 3\(a\)](#)

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

36 Disclosure of information to gas and electricity suppliers etc

- (1) If the first and second conditions are met, a specified person may disclose information held by the person in connection with any of the person's functions to—
 - (a) a licensed gas supplier, or
 - (b) a licensed electricity supplier.
- (2) The first condition is that the disclosure is for the purpose of assisting people living in fuel poverty by—
 - (a) reducing their energy costs,
 - (b) improving efficiency in their use of energy, or
 - (c) improving their health or financial well-being.
- (3) The second condition is that the information is disclosed with the intention that it will be used by the recipient of the information in connection with—
 - (a) a support scheme under Part 2 of the Energy Act 2010 (schemes for reducing fuel poverty),
 - (b) in the case of a disclosure to a licensed gas supplier, an obligation imposed by an order under section 33BC or 33BD of the Gas Act 1986 (powers to impose obligations on gas suppliers etc),
 - (c) in the case of a disclosure to a licensed electricity supplier, an obligation imposed by an order under section 41A or 41B of the Electricity Act 1989 (powers to impose obligations on electricity suppliers etc),^{F1}...
 - (d) the making of grants (by any person) under section 15 of the Social Security Act 1990 in accordance with regulations under that section made by the Scottish Ministers or the Welsh Ministers.
 - [^{F2}(e) in the case of a disclosure to a licensed gas supplier, a restriction on charges levied on domestic customers by the supplier which is imposed by the Gas and Electricity Markets Authority—
 - (i) in the exercise of its powers under section 23(1)(b) of the Gas Act 1986 (modification of conditions of licences), and
 - (ii) for purposes that include assisting people living in fuel poverty by reducing their energy costs, or
 - (f) in the case of a disclosure to a licensed electricity supplier, a restriction on charges levied on domestic customers by the supplier which is imposed by the Gas and Electricity Markets Authority—
 - (i) in the exercise of its powers under section 11A(1)(b) of the Electricity Act 1989 (modification of conditions of licences), and
 - (ii) for purposes that include assisting people living in fuel poverty by reducing their energy costs.]
- (4) In this section and section 37 “specified person” means a person specified, or of a description specified, in Schedule 5.
- (5) The appropriate national authority may by regulations—
 - (a) amend Schedule 5 so as to add, remove or modify an entry relating to a person or description of person;
 - (b) amend subsection (1) so as to add or remove a person or description of person to whom information may be disclosed;
 - (c) amend subsection (3) so as to add, modify or remove a reference to a fuel poverty measure.

Status: Point in time view as at 01/12/2020.

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- (6) Regulations under subsection (5)(a) may add an entry relating to a person or a description of person to Schedule 5 only if—
- (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
 - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (7) Regulations under subsection (5)(b) may add a person or a description of person to subsection (1) only if the person or (as the case may be) each person of that description—
- (a) provides assistance of a kind mentioned in subsection (2) to people living in fuel poverty,
 - (b) monitors or enforces the provision of such assistance to such people,
 - (c) administers a fuel poverty measure, or
 - (d) provides services to a person within paragraph (a), (b) or (c).
- (8) In determining whether to make regulations under subsection (5)(a) or (b) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
 - (b) in the case of regulations which remove a person from Schedule 5 or subsection (1), whether that person, or any person providing services to that person, has had regard to the code of practice under section 43 as required by that section.
- (9) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (10) For the purposes of this Chapter a person lives in fuel poverty if the person is a member of a household living on a lower income in a home which cannot be kept warm at a reasonable cost.
- (11) In this section—
- [^{F3}“domestic customer” means a customer supplied with gas or electricity wholly or mainly for domestic purposes;]
- “fuel poverty measure” means—
- (a) a scheme, arrangement or set of arrangements, or
 - (b) a function or set of functions,
- which has as its purpose (or one of its purposes) the provision of assistance of a kind mentioned in subsection (2) to people living in fuel poverty;
- “licensed gas supplier” means the holder of a licence under section 7A(1) of the Gas Act 1986;
- “licensed electricity supplier” means the holder of a licence under section 6(1)(d) of the Electricity Act 1989.

Textual Amendments

- F1** Word in s. 36(3)(c) omitted (19.7.2018) by virtue of [The Digital Government \(Disclosure of Information\) Regulations 2018 \(S.I. 2018/912\)](#), regs. 1(1), **3(2)(a)**

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

F2 S. 36(3)(e)(f) inserted (19.7.2018) by [The Digital Government \(Disclosure of Information\) Regulations 2018 \(S.I. 2018/912\)](#), regs. 1(1), **3(2)(b)**

F3 Words in s. 36(11) inserted (19.7.2018) by [The Digital Government \(Disclosure of Information\) Regulations 2018 \(S.I. 2018/912\)](#), regs. 1(1), **3(3)**

Commencement Information

I5 S. 36 in force at 1.10.2017 for specified purposes by [S.I. 2017/765](#), **reg. 3(d)**

I6 S. 36 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382](#), **reg. 3(b)**

37 Disclosure of information by gas and electricity suppliers etc

- (1) If the condition in subsection (2) is met, a person to whom information may be disclosed under section 36 may disclose information held by that person to a specified person.
- (2) That condition is that the disclosure is for the purpose of assisting people living in fuel poverty in England and Wales or Scotland by—
 - (a) reducing their energy costs,
 - (b) improving efficiency in their use of energy, or
 - (c) improving their health or financial well-being.

Commencement Information

I7 S. 37 in force at 1.5.2018 by [S.I. 2018/382](#), **reg. 3(c)**

38 Disclosure of information to water and sewerage undertakers etc

- (1) If the first and second conditions are met, a specified person may disclose information held by the person in connection with any of the person's functions to—
 - (a) a water or sewerage undertaker for an area which is wholly or mainly in England, or
 - (b) a water or sewerage undertaker for an area which is wholly or mainly in Wales.
- (2) The first condition is that the disclosure is for the purpose of assisting people living in water poverty by—
 - (a) reducing their water or sewerage costs,
 - (b) improving efficiency in their use of water, or
 - (c) improving their health or financial well-being.
- (3) The second condition is that the information is disclosed with the intention that it will be used by the undertaker in connection with provision in the undertaker's charges scheme under section 143 of the Water Industry Act 1991 which is included in that scheme—
 - (a) in compliance with regulations under section 143A of that Act which impose requirements within subsection (2)(d) of that section (power for regulations to require charges schemes to make special provision for particular classes of individual), or
 - (b) by virtue of section 44 of the Flood and Water Management Act 2010 (social tariffs).

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Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

- (4) In this section and section 39 “specified person” means a person specified, or of a description specified, in Schedule 6.
- (5) The appropriate national authority may by regulations—
- (a) amend Schedule 6 so as to add, remove or modify an entry relating to a person or description of person;
 - (b) amend subsection (1) so as to add or remove a person or description of person to whom information may be disclosed;
 - (c) amend subsection (3) so as to add, modify or remove a reference to a water poverty measure.
- (6) Regulations under subsection (5)(a) may add an entry relating to a person or a description of person to Schedule 6 only if—
- (a) the person is a public authority or (as the case may be) each person of that description is a public authority, or
 - (b) the person provides services to a public authority or (as the case may be) each person of that description provides services to a public authority.
- (7) Regulations under subsection (5)(b) may add a person or a description of person to subsection (1) only if the person or (as the case may be) each person of that description—
- (a) provides assistance of a kind mentioned in subsection (2) to people living in water poverty,
 - (b) monitors or enforces the provision of such assistance to such people,
 - (c) administers a water poverty measure, or
 - (d) provides services to a person within paragraph (a), (b) or (c).
- (8) In determining whether to make regulations under subsection (5)(a) or (b) in relation to a person or description of person the appropriate national authority must have regard, in particular, to—
- (a) the systems and procedures for the secure handling of information by that person or persons of that description, and
 - (b) in the case of regulations which remove a person from Schedule 6 or subsection (1), whether that person, or any person providing services to that person, has had regard to the code of practice under section 43 as required by that section.
- (9) In the case of a person (“P”) who is a specified person merely because of providing services to a public authority, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.
- (10) For the purposes of this Chapter a person lives in water poverty if the person is a member of a household living on a lower income in a home which—
- (a) cannot be supplied with water at a reasonable cost, or
 - (b) cannot be supplied with sewerage services at a reasonable cost.
- (11) In this section “water poverty measure” means—
- (a) a scheme, arrangement or set of arrangements, or
 - (b) a function or set of functions,
- which has as its purpose (or one of its purposes) the provision of assistance of a kind mentioned in subsection (2) to people living in water poverty.

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

Commencement Information

- I8** S. 38 in force at 9.3.2018 for specified purposes by [S.I. 2018/342, reg. 2\(b\)](#)
I9 S. 38 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(b\)](#)
I10 S. 38 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(d\)](#)

39 Disclosure of information by water and sewerage undertakers etc

- (1) If the condition in subsection (2) is met, a person to whom information may be disclosed under section 38 may disclose information held by that person to a specified person.
- (2) That condition is that the disclosure is for the purpose of assisting people living in water poverty in England and Wales by—
 - (a) reducing their water or sewerage costs,
 - (b) improving efficiency in their use of water, or
 - (c) improving their health or financial well-being.

Commencement Information

- I11** S. 39 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(c\)](#)
I12 S. 39 in force at 1.5.2018 in so far as not already in force by [S.I. 2018/382, reg. 3\(e\)](#)

40 Further provisions about disclosures under any of sections 35 to 39

- (1) Personal information disclosed under any of sections 35 to 39 may only be used by the person to whom it is disclosed for the purposes for which it was disclosed, subject to subsection (2).
- (2) Subsection (1) does not prevent the use of information by a person—
 - (a) if the information has already lawfully been made available to the public,
 - (b) if the person to whom the information relates consents to its use for another purpose,
 - (c) for the prevention or detection of crime or the prevention of anti-social behaviour,
 - (d) for the purposes of a criminal investigation,
 - (e) for the purposes of legal proceedings (whether civil or criminal), or
 - (f) for the purposes of—
 - (i) preventing serious physical harm to a person,
 - (ii) preventing loss of human life,
 - (iii) safeguarding vulnerable adults or children,
 - (iv) responding to an emergency, or
 - (v) protecting national security.
- (3) In subsection (2)(c) “anti-social behaviour” means conduct that—
 - (a) is likely to cause harassment, alarm or distress to any person, or
 - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.

Status: Point in time view as at 01/12/2020.

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- (4) Subsection (2) does not apply to information disclosed to a person under section 35, 36 or 38 by the Revenue and Customs; but such information may be used by that person for purposes other than those for which it was disclosed with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (5) For the purposes of this Chapter information is “personal information” if—
- it relates to and identifies a particular person (including a body corporate), but
 - it is not information about the internal administrative arrangements of a specified person or a person to whom information may be disclosed under section 36 or 38.
- (6) For the purposes of subsection (5) information identifies a particular person if the identity of that person—
- is specified in the information,
 - can be deduced from the information, or
 - can be deduced from the information taken together with any other information.
- (7) A disclosure under any of sections 35 to 39 does not breach—
- any obligation of confidence owed by the person making the disclosure, or
 - any other restriction on the disclosure of information (however imposed).
- (8) But nothing in sections 35 to 39 authorises the making of a disclosure which—
- contravenes [^{F4}the data protection legislation], or
 - is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (9) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (8)(b) has effect as if it included a reference to that Part.
- (10) Sections 35 to 39 do not limit the circumstances in which information may be disclosed apart from those sections.
- [^{F5}(11) In this section, “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

Textual Amendments

- F4** Words in s. 40(8)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 216\(2\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F5** S. 40(11) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 216\(3\)](#) (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

- I13** S. 40 in force at 1.4.2018 for specified purposes by [S.I. 2018/342, reg. 3\(1\)\(d\)](#)
- I14** S. 40 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382, reg. 3\(f\)](#)

Status: Point in time view as at 01/12/2020.

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41 Confidentiality of personal information

- (1) Personal information disclosed under any of sections 35 to 39 and received by a person (“P”) may not be disclosed—
- (a) by P, or
 - (b) by any other person who has received it directly or indirectly from P.
- (2) Subsection (1) does not apply to a disclosure—
- (a) which is required or permitted by any enactment (including any of sections 35 to 39),
 - (b) which is required by an EU obligation,
 - (c) which is made in pursuance of an order of the court,
 - (d) of information which has already lawfully been made available to the public,
 - (e) which is made for the prevention or detection of crime or the prevention of anti-social behaviour,
 - (f) which is made for the purposes of a criminal investigation,
 - (g) which is made for the purposes of legal proceedings (whether civil or criminal),
 - (h) which is a protected disclosure for any of the purposes of the Employment Rights Act 1996 or the Employment Rights (Northern Ireland) Order 1996 (SI 1996/1919 (NI 16)),
 - (i) consisting of the publication of information for the purposes of journalism, where the publication of the information is in the public interest,
 - (j) which is made with the consent of the person to whom it relates, or
 - (k) which is made for the purposes of—
 - (i) preventing serious physical harm to a person,
 - (ii) preventing loss of human life,
 - (iii) safeguarding vulnerable adults or children,
 - (iv) responding to an emergency, or
 - (v) protecting national security.
- (3) In subsection (2)(e) “anti-social behaviour” means conduct that—
- (a) is likely to cause harassment, alarm or distress to any person, or
 - (b) is capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises.
- (4) A person commits an offence if—
- (a) the person discloses personal information in contravention of subsection (1), and
 - (b) at the time that the person makes the disclosure, the person knows that the disclosure contravenes that subsection or is reckless as to whether the disclosure does so.
- (5) A person who is guilty of an offence under subsection (4) is liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (6) A person who is guilty of an offence under subsection (4) is liable on summary conviction—
- (a) in England and Wales, to imprisonment for a term not exceeding 12 months, to a fine or to both;

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- (b) in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both;
 - (c) in Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.
- (7) In the application of subsection (6)(a) to an offence committed before the coming into force of ^{F6}paragraph 24(2) of Schedule 22 to the Sentencing Act 2020] the reference to 12 months is to be read as a reference to 6 months.
- (8) This section does not apply to personal information disclosed under section 35, 36 or 38 by the Revenue and Customs.

Textual Amendments

- F6** Words in s. 41(7) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 443\(1\)](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); S.I. 2020/1236, reg. 2

Commencement Information

- I15** S. 41 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), [reg. 3\(1\)\(e\)](#)
- I16** S. 41 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), [reg. 3\(g\)](#)

42 Information disclosed by the Revenue and Customs

- (1) Personal information disclosed by the Revenue and Customs under section 35, 36 or 38 and received by a person may not be disclosed by that person.
- (2) Subsection (1) does not apply to a disclosure which is made with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).
- (3) A person who contravenes subsection (1) is guilty of an offence.
- (4) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed—
- (a) that the disclosure was lawful, or
 - (b) that the information had already and lawfully been made available to the public.
- (5) Subsections (4) to (7) of section 19 of the Commissioners for Revenue and Customs Act 2005 apply to an offence under subsection (3) as they apply to an offence under that section.

Commencement Information

- I17** S. 42 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), [reg. 3\(1\)\(f\)](#)
- I18** S. 42 in force at 1.5.2018 for E.W.S. by [S.I. 2018/382](#), [reg. 3\(h\)](#)

43 Code of practice

- (1) The ^{F7}[relevant Minister] must issue a code of practice about—
- (a) the disclosure of information under any of sections 35 to 39, and
 - (b) the use of information disclosed under any of those sections.

Status: Point in time view as at 01/12/2020.

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- (2) The code of practice must be consistent with the code of practice [^{F8}prepared under section 121 of the Data Protection Act 2018 (data-sharing code) and issued under section 125(4) of that Act] (as altered or replaced from time to time).
- (3) A person to whom the code applies must have regard to the code of practice—
 - (a) in disclosing information under any of sections 35 to 39, and
 - (b) in using information disclosed under any of those sections.
- (4) The [^{F7}relevant Minister] may from time to time revise and re-issue the code of practice.
- (5) Before issuing or reissuing the code of practice the [^{F7}relevant Minister] must consult—
 - (a) the Information Commissioner,
 - (b) the Commissioners for Her Majesty's Revenue and Customs,
 - (c) the Scottish Ministers,
 - (d) the Welsh Ministers,
 - (e) the Department of Finance in Northern Ireland, and
 - (f) such other persons as the [^{F7}relevant Minister] thinks appropriate.
- (6) The fact that this section was not in force when consultation of the kind mentioned in subsection (5) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (7) The [^{F7}relevant Minister] may not issue the code of practice unless a draft of the code has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Before reissuing the code the [^{F7}relevant Minister] must lay a draft of the code as proposed to be reissued before Parliament.
- (9) The [^{F7}relevant Minister] may not reissue the code if, within the 40-day period, either House of Parliament resolves not to approve it.
- (10) In subsection (9) “the 40 day period” means—
 - (a) the period of 40 days beginning with the day on which the draft is laid before Parliament, or
 - (b) if the draft is not laid before each House on the same day, the period of 40 days beginning with the later of the days on which it is laid before Parliament.
- (11) For the purposes of subsection (10) no account is to be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (12) As soon as is reasonably practicable after issuing or reissuing the code of practice the [^{F7}relevant Minister] must lay, or arrange for the laying of, a copy of it before—
 - (a) the Scottish Parliament,
 - (b) the National Assembly for Wales, and
 - (c) the Northern Ireland Assembly.
- (13) In disclosing information under any of sections 35 to 39, a person must have regard to the following codes of practice issued by the Information Commissioner under [^{F9}section 128 of the Data Protection Act 2018], so far as they apply to the information in question—

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- (a) any code which makes provision about the identification and reduction of the risks to privacy of a proposal to disclose information;
 - (b) any code which makes provision about the information to be provided to data subjects (within the meaning of that Act) about the use to be made of information collected from them.
- (14) The duty in subsection (13) does not affect any other requirement for the person to have regard to a code of practice in disclosing the information.

Textual Amendments

- F7** Words in s. 43 substituted (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **6(2)** (with art. 5)
- F8** Words in s. 43(2) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 217(2)** (with ss. 117, 209, 210, Sch. 20 para. 48); S.I. 2018/625, reg. 2(1)(g)
- F9** Words in s. 43(13) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 217(3)** (with ss. 117, 209, 210, Sch. 20 para. 48); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

- I19** S. 43 in force at 1.10.2017 for specified purposes for E.W.S. by [S.I. 2017/765](#), **reg. 3(e)**
- I20** S. 43 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), **reg. 3(1)(g)**

44 Regulations under this Chapter

- (1) Any power to make regulations under this Chapter is exercisable—
- (a) in the case of regulations made by the [^{F10}relevant Minister] or the Welsh Ministers, by statutory instrument, and
 - (b) in the case of regulations made by the Department of Finance in Northern Ireland, by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (SI 1979/1573 (NI 12)).
- (2) Regulations under this Chapter—
- (a) may make different provision for different purposes;
 - (b) may contain consequential, supplementary, transitional or transitory provision or savings.
- (3) In the case of—
- (a) regulations under section 35(3) which amend Schedule 4 so as to add an entry relating to a person or description of person,
 - (b) regulations under section 36(5)(a) which amend Schedule 5 so as to add an entry relating to a person or description of person, or
 - (c) regulations under section 38(5)(a) which amend Schedule 6 so as to add an entry relating to a person or description of person,
- this includes power to make provision in relation to information disclosed by that person or a person of that description which is similar to that made by section 42 in relation to information disclosed by the Revenue and Customs.
- (4) Before making regulations under this Chapter the appropriate national authority must consult—
- (a) the Information Commissioner,
 - (b) the Commissioners for Her Majesty's Revenue and Customs,

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

- (c) each other person who is the appropriate national authority in relation to regulations under this Chapter,
 - (d) where the appropriate national authority is not the [^{F11}relevant Minister, the Minister for the Cabinet Office], and
 - (e) such other persons as the appropriate national authority thinks appropriate.
- (5) The fact that a power to make regulations under this Chapter was not in force when consultation of the kind mentioned in subsection (4) took place is to be disregarded in determining whether there has been compliance with that subsection.
- (6) The appropriate national authority may only make regulations under section 35(7), 36(5)(c) or 38(5)(c) with the consent of the Treasury in a case where the regulations could affect the disclosure of information by the Revenue and Customs.
- (7) A statutory instrument containing regulations made under this Chapter by the [^{F12}relevant Minister] may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (8) Regulations made under this Chapter by the Scottish Ministers are subject to the affirmative procedure.
- (9) A statutory instrument containing regulations made under this Chapter by the Welsh Ministers may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.
- (10) Regulations under this Chapter may not be made by the Department of Finance in Northern Ireland unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (11) If a draft of a statutory instrument containing regulations under section 35(3), 36(5)(a) or (b) or 38(5)(a) or (b) would, apart from this subsection, be treated for the purposes of the standing orders of either House of Parliament as a hybrid instrument, it is to proceed in that House as if it were not such an instrument.

Textual Amendments

- F10** Words in s. 44(1)(a) substituted (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **6(3)(a)** (with art. 5)
- F11** Words in s. 44(4)(d) substituted (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **6(3)(b)** (with art. 5)
- F12** Words in s. 44(7) substituted (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **6(3)(c)** (with art. 5)

Modifications etc. (not altering text)

- C3** S. 44(4)(d): functions transferred (18.5.2018) by [The Transfer of Functions \(Digital Government\) Order 2018 \(S.I. 2018/526\)](#), arts. 1(2), **3** (with arts. 4, 5)
- C4** S. 44(4)(d): functions transferred (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **3** (with art. 5)

Commencement Information

- I21** S. 44 in force at 1.10.2017 for specified purposes by [S.I. 2017/765](#), **reg. 3(f)**
- I22** S. 44 in force at 9.3.2018 for specified purposes by [S.I. 2018/342](#), **reg. 2(c)**
- I23** S. 44 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), **reg. 3(1)(h)**
- I24** S. 44 in force at 1.5.2018 for E.W.S. in so far as not already in force by [S.I. 2018/382](#), **reg. 3(i)**

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

45 Interpretation of this Chapter etc

(1) In this Chapter—

“the appropriate national authority” means the [^{F13}relevant Minister], subject to subsections (2) to (7);

“enactment” includes—

- (a) an enactment contained in, or in an instrument made under, an Act of the Scottish Parliament;
- (b) an enactment contained in, or in an instrument made under, a Measure or Act of the National Assembly for Wales;
- (c) an enactment contained in, or in an instrument made under, Northern Ireland legislation;
- (d) an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;

“function” means function of a public nature;

“personal information” has the meaning given by section 40(5);

“public authority” means a person who exercises functions of a public nature, subject to subsection (8);

[^{F14}“relevant Minister” means the Secretary of State or the Minister for the Cabinet Office;]

^{F15} ...

“the Revenue and Customs” has the meaning given by section 17(3) of the Commissioners for Revenue and Customs Act 2005.

(2) The Scottish Ministers are the appropriate national authority in relation to—

- (a) regulations under section 35(3) or 36(5)(a) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Scottish body,
- (b) regulations under section 36(5)(b) which add or remove a person who is, or a description of persons each of whom is, a Scottish body, and
- (c) regulations under section 35(7) or 36(5)(c) which have the effect only of enabling a Scottish body to disclose information for the purposes of an objective which does not relate to a reserved matter (within the meaning of the Scotland Act 1998).

(3) In subsection (2) “Scottish body” means—

- (a) a person who is a part of the Scottish Administration,
- (b) a Scottish public authority with mixed functions or no reserved functions (within the meaning of the Scotland Act 1998), or
- (c) a person providing services to a person within paragraph (a) or (b).

(4) The Welsh Ministers are the appropriate national authority in relation to—

- (a) regulations under section 35(3), 36(5)(a) or 38(5)(a) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Welsh body,
- (b) regulations under section 36(5)(b) or 38(5)(b) which add or remove a person who is, or a description of persons each of whom is, a Welsh body, and
- (c) regulations under section 35(7), 36(5)(c) or 38(5)(c) which have the effect only of enabling a Welsh body to disclose information for the purposes of an objective which could be specified by provision falling within the legislative competence of the National Assembly for Wales.

Status: Point in time view as at 01/12/2020.

Changes to legislation: There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1. (See end of Document for details)

- (5) In subsection (4) “Welsh body” means—
- (a) a devolved Welsh authority as defined by section 157A of the Government of Wales Act 2006, or
 - (b) a person providing services to a devolved Welsh authority as defined by that section.
- (6) The Department of Finance in Northern Ireland is the appropriate national authority in relation to—
- (a) regulations under section 35(3) which add, modify or remove an entry relating to a person who is, or a description of persons each of whom is, a Northern Ireland body, and
 - (b) regulations under section 35(7) which have the effect only of enabling a Northern Ireland body to disclose information for the purposes of an objective which relates to a transferred matter (within the meaning of the Northern Ireland Act 1998).
- (7) In subsection (6) “Northern Ireland body” means—
- (a) a Minister within the meaning of the Northern Ireland Act 1998,
 - (b) a Northern Ireland department,
 - (c) a Northern Ireland public authority within the meaning of the Statistics and Registration Service Act 2007, or
 - (d) a person providing services to a person within paragraph (a), (b) or (c).
- (8) A person is not a public authority for the purposes of this Chapter if, apart from this subsection, the person would be a public authority for those purposes merely because the person exercises functions on behalf of another public authority.
- (9) References in this Chapter to people living in fuel poverty are to be construed in accordance with section 36(10).
- (10) References in this Chapter to people living in water poverty are to be construed in accordance with section 38(10).
- (11) The power of the Secretary of State in section 69(2) of the Wales Act 2017 to amend an enactment contained in primary legislation in consequence of any provision of that Act includes power to amend this Chapter, and section 118 so far as relating to this Chapter, in consequence of section 48 (water and sewerage) of that Act.

Textual Amendments

- F13** Words in s. 45(1) substituted (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **6(4)(a)** (with art. 5)
- F14** Words in s. 45(1) inserted (30.9.2020) by [The Transfer of Functions \(Digital Government\) Order 2020 \(S.I. 2020/940\)](#), arts. 1(2), **6(4)(b)** (with art. 5)
- F15** Words in s. 45(1) omitted (18.5.2018) by virtue of [The Transfer of Functions \(Digital Government\) Order 2018 \(S.I. 2018/526\)](#), arts. 1(2), **6(4)(b)** (with arts. 4, 5)

Commencement Information

- I25** S. 45 in force at 1.4.2018 for specified purposes by [S.I. 2018/342](#), **reg. 3(1)(i)**
- I26** S. 45 in force at 1.5.2018 for E.W.S. by [S.I. 2018/382](#), **reg. 3(j)**

Status:

Point in time view as at 01/12/2020.

Changes to legislation:

There are currently no known outstanding effects for the Digital Economy Act 2017, CHAPTER 1.