

## SCHEDULES

### SCHEDULE 2

#### EXEMPTIONS ETC FROM THE GDPR

#### PART 3

##### RESTRICTION BASED ON ARTICLE 23(1): PROTECTION OF RIGHTS OF OTHERS

##### *Assumption of reasonableness for health workers, social workers and education workers*

- 17 (1) For the purposes of paragraph 16(2)(b), it is to be considered reasonable for a controller to disclose information to a data subject without the consent of the other individual where—
- (a) the health data test is met,
  - (b) the social work data test is met, or
  - (c) the education data test is met.
- (2) The health data test is met if—
- (a) the information in question is contained in a health record, and
  - (b) the other individual is a health professional who has compiled or contributed to the health record or who, in his or her capacity as a health professional, has been involved in the diagnosis, care or treatment of the data subject.
- (3) The social work data test is met if—
- (a) the other individual is—
    - (i) a children’s court officer,
    - (ii) a person who is or has been employed by a person or body referred to in paragraph 8 of Schedule 3 in connection with functions exercised in relation to the information, or
    - (iii) a person who has provided for reward a service that is similar to a service provided in the exercise of any relevant social services functions, and
  - (b) the information relates to the other individual in an official capacity or the other individual supplied the information—
    - (i) in an official capacity, or
    - (ii) in a case within paragraph (a)(iii), in connection with providing the service mentioned in paragraph (a)(iii).
- (4) The education data test is met if—
- (a) the other individual is an education-related worker, or
  - (b) the other individual is employed by an education authority (within the meaning of the Education (Scotland) Act 1980) in pursuance of its functions relating to education and—

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*Status: This is the original version (as it was originally enacted).*

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- (i) the information relates to the other individual in his or her capacity as such an employee, or
- (ii) the other individual supplied the information in his or her capacity as such an employee.

(5) In this paragraph—

“children’s court officer” means a person referred to in paragraph 8(1)(q), (r), (s), (t) or (u) of Schedule 3;

“education-related worker” means a person referred to in paragraph 14(4) (a) or (b) or 16(4)(a), (b) or (c) of Schedule 3 (educational records);

“relevant social services functions” means functions specified in paragraph 8(1)(a), (b), (c) or (d) of Schedule 3.