

SCHEDULE 12
Accessible public records

Meaning of “accessible public record”

1
For the purposes of section 68 “accessible public record” means any record which is kept by an authority specified—
as respects England and Wales, in the Table in paragraph 2, (a)
as respects Scotland, in the Table in paragraph 4, or (b)
as respects Northern Ireland, in the Table in paragraph 6, (c)
and is a record of information of a description specified in that Table in relation to that authority.

Housing and social services records: England and Wales

2
The following is the Table referred to in paragraph 1(a).

TABLE OF AUTHORITIES AND INFORMATION

<i>The authorities</i>	<i>The accessible information</i>
Housing Act local authority.	Information held for the purpose of any of the authority’s tenancies.
Local social services authority.	Information held for any purpose of the authority’s social services functions.

3
The following provisions apply for the interpretation of the Table in paragraph 2. (1)
(2)
Any authority which, by virtue of section 4(e) of the [1985 c. 68.] Housing Act 1985, is a local authority for the purpose of any provision of that Act is a “Housing Act local authority” for the purposes of this Schedule, and so is any housing action trust established under Part III of the [1988 c. 50.] Housing Act 1988. (3)
Information contained in records kept by a Housing Act local authority is “held for the purpose of any of the authority’s tenancies” if it is held for any purpose of the relationship of landlord and tenant of a dwelling which subsists, has subsisted or may subsist between the authority and any individual who is, has been or, as the case may be, has applied to be, a tenant of the authority. (4)
Any authority which, by virtue of section 1 or 12 of the [1970 c. 42.] Local Authority Social Services Act 1970, is or is treated as a local authority for the purposes of that Act is a “local social services authority” for the purposes of this Schedule; and information contained in records kept by such an authority is “held for any purpose of the authority’s social services functions” if it is held for the purpose of any past, current or proposed exercise of such a function in any case.

(5)

Any expression used in paragraph 2 or this paragraph and in Part II of the Housing Act 1985 or the Local Authority Social Services Act 1970 has the same meaning as in that Act.

Housing and social services records: Scotland

4

The following is the Table referred to in paragraph 1(b).

TABLE OF AUTHORITIES AND INFORMATION

<i>The authorities</i>	<i>The accessible information</i>
Local authority. Scottish Homes.	Information held for the purpose of any of the body's tenancies.
Social work authority.	Information held for any purpose of the authority's functions under the Social Work (Scotland) Act 1968 and the enactments referred to in section 5(1B) of that Act.

5

The following provisions apply for the interpretation of the Table in paragraph 4.

(1)

“Local authority” means—

(2)

a council constituted under section 2 of the [1994 c. 39.] Local Government etc. (Scotland) Act 1994,

(a)

a joint board or joint committee of two or more of those councils, or

(b)

any trust under the control of such a council.

(c)

(3)

Information contained in records kept by a local authority or Scottish Homes is held for the purpose of any of their tenancies if it is held for any purpose of the relationship of landlord and tenant of a dwelling-house which subsists, has subsisted or may subsist between the authority or, as the case may be, Scottish Homes and any individual who is, has been or, as the case may be, has applied to be a tenant of theirs.

(4)

“Social work authority” means a local authority for the purposes of the [1968 c. 49.] Social Work (Scotland) Act 1968; and information contained in records kept by such an authority is held for any purpose of their functions if it is held for the purpose of any past, current or proposed exercise of such a function in any case.

Housing and social services records: Northern Ireland

6

The following is the Table referred to in paragraph 1(c).

TABLE OF AUTHORITIES AND INFORMATION

<i>The authorities</i>	<i>The accessible information</i>
The Northern Ireland Housing Executive.	Information held for the purpose of any of the Executive's tenancies.
A Health and Social Services Board.	Information held for the purpose of any past, current or proposed exercise by the Board of any function exercisable, by virtue of directions under Article 17(1) of the Health and Personal Social Services (Northern Ireland) Order 1972, by the Board on behalf of the Department of Health and Social Services with respect to the administration of personal social services under—
	(a) the Children and Young Persons Act (Northern Ireland) 1968;
	(b) the Health and Personal Social Services (Northern Ireland) Order 1972;
	(c) Article 47 of the Matrimonial Causes (Northern Ireland) Order 1978;
	(d) Article 11 of the Domestic Proceedings (Northern Ireland) Order 1980;
	(e) the Adoption (Northern Ireland) Order 1987; or
	(f) the Children (Northern Ireland) Order 1995.
An HSS trust	Information held for the purpose of any past, current or proposed exercise by the trust of any function exercisable, by virtue of an authorisation under Article 3(1) of the Health and Personal Social Services (Northern Ireland) Order 1994, by the trust on behalf of a Health and Social Services Board with respect to the administration of personal social services under any statutory provision mentioned in the last preceding entry.

7

This paragraph applies for the interpretation of the Table in paragraph 6.

(1)

(2)

Information contained in records kept by the Northern Ireland Housing Executive is “held for the purpose of any of the Executive’s tenancies” if it is held for any purpose of the relationship of landlord and tenant of a dwelling which subsists, has subsisted or may subsist between the Executive and any individual who is,

has been or, as the case may be, has applied to be, a tenant of the Executive.

SCHEDULE 15

Minor and consequential amendments

Public Records Act 1958 (c. 51)

- 1 (1)
In Part II of the Table in paragraph 3 of Schedule 1 to the Public Records Act 1958 (definition of public records) for “the Data Protection Registrar” there is substituted “the Data Protection Commissioner”.
- (2)
That Schedule shall continue to have effect with the following amendment (originally made by paragraph 14 of Schedule 2 to the [1984 c. 35.] Data Protection Act 1984).
- (3)
After paragraph 4(1)(n) there is inserted—
- “(nn)
records of the Data Protection Tribunal”.

Parliamentary Commissioner Act 1967 (c. 13)

- 2
In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation) for “Data Protection Registrar” there is substituted “Data Protection Commissioner”.
- 3
In Schedule 4 to that Act (tribunals exercising administrative functions), in the entry relating to the Data Protection Tribunal, for “section 3 of the Data Protection Act 1984” there is substituted “section 6 of the Data Protection Act 1998”.

Superannuation Act 1972 (c. 11)

- 4
In Schedule 1 to the Superannuation Act 1972, for “Data Protection Registrar” there is substituted “Data Protection Commissioner”.

House of Commons Disqualification Act 1975 (c. 24)

- 5 (1)
Part II of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified) shall continue to include the entry “The Data

Protection Tribunal” (originally inserted by paragraph 12(1) of Schedule 2 to the Data Protection Act 1984).

(2)

In Part III of that Schedule (disqualifying offices) for “The Data Protection Registrar” there is substituted “The Data Protection Commissioner”.

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

6

Part II of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) shall continue to include the entry “The Data Protection Tribunal” (originally inserted by paragraph 12(3) of Schedule 2 to the Data Protection Act 1984).

(1)

In Part III of that Schedule (disqualifying offices) for “The Data Protection Registrar” there is substituted “The Data Protection Commissioner”.

(2)

Representation of the People Act 1983 (c. 2)

7

In Schedule 2 of the Representation of the People Act 1983 (provisions which may be included in regulations as to registration etc), in paragraph 11A(2)—

(a)

for “data user” there is substituted “data controller”, and

(b)

for “the Data Protection Act 1984” there is substituted “the Data Protection Act 1998”.

Access to Medical Reports Act 1988 (c. 28)

8

In section 2(1) of the Access to Medical Reports Act 1988 (interpretation), in the definition of “health professional”, for “the Data Protection (Subject Access Modification) Order 1987” there is substituted “the Data Protection Act 1998”.

Football Spectators Act 1989 (c. 37)

9

Section 5 of the Football Spectators Act 1989 (national membership scheme: contents and penalties) is amended as follows.

(1)

In subsection (5), for “paragraph 1(2) of Part II of Schedule 1 to the Data Protection Act 1984” there is substituted “paragraph 1(2) of Part II of Schedule 1 to the Data Protection Act 1998”.

(2)

In subsection (6), for “section 28(1) and (2) of the Data Protection Act 1984” there is substituted “section 29(1) and (2) of the Data Protection Act 1998”.

(3)

Education (Student Loans) Act 1990 (c. 6)

10

Schedule 2 to the Education (Student Loans) Act 1990 (loans for students) so far as that Schedule continues in force shall have effect as if the reference in paragraph 4(2) to the Data Protection Act 1984 were a reference to this Act.

Access to Health Records Act 1990 (c. 23)

11

For section 2 of the Access to Health Records Act 1990 there is substituted—

“2

Health professionals

In this Act “health professional” has the same meaning as in the Data Protection Act 1998.”

12

In section 3(4) of that Act (cases where fee may be required) in paragraph (a), for “the maximum prescribed under section 21 of the Data Protection Act 1984” there is substituted “such maximum as may be prescribed for the purposes of this section by regulations under section 7 of the Data Protection Act 1998”.

13

In section 5(3) of that Act (cases where right of access may be partially excluded) for the words from the beginning to “record” in the first place where it occurs there is substituted “Access shall not be given under section 3(2) to any part of a health record”.

Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (1991/1707 (N.I. 14))

14

In Article 4 of the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991 (obligation to give access), in paragraph (2) (exclusion of information to which individual entitled under section 21 of the Data Protection Act 1984) for “section 21 of the Data Protection Act 1984” there is substituted “section 7 of the Data Protection Act 1998”.

15

In Article 6(1) of that Order (interpretation), in the definition of “health professional”, for “the Data Protection (Subject Access Modification) (Health) Order 1987” there is substituted “the Data Protection Act 1998”.

Tribunals and Inquiries Act 1992 (c. 53)

16

In Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under direct supervision of Council on Tribunals), for paragraph 14 there is substituted—

“Data
protection 14.

(a)

The Data Protection Commissioner appointed under section 6 of the Data Protection Act 1998;

(b)

_____ the Data Protection Tribunal constituted under that section, in respect of its jurisdiction under section

48 of that Act.”

Access to Health Records (Northern Ireland) Order 1993 (1993/1250 (N.I. 4))

17

For paragraphs (1) and (2) of Article 4 of the Access to Health Records (Northern Ireland) Order 1993 there is substituted—

“(1)

In this Order “health professional” has the same meaning as in the Data Protection Act 1998.”

18

In Article 5(4) of that Order (cases where fee may be required) in sub-paragraph (a), for “the maximum prescribed under section 21 of the Data Protection Act 1984” there is substituted “such maximum as may be prescribed for the purposes of this Article by regulations under section 7 of the Data Protection Act 1998”.

19

In Article 7 of that Order (cases where right of access may be partially excluded) for the words from the beginning to “record” in the first place where it occurs there is substituted “Access shall not be given under Article 5(2) to any part of a health record”.

SCHEDULE 16

Repeals and revocations

Part I

Repeals

<i>Chapter</i>	<i>Short title</i>	<i>Extent of repeal</i>
1984 c. 35.	The Data Protection Act 1984.	The whole Act.
1986 c. 60.	The Financial Services Act 1986.	Section 190.
1987 c. 37.	The Access to Personal Files Act 1987.	The whole Act.
1988 c. 40.	The Education Reform Act 1988.	Section 223.
1988 c. 50.	The Housing Act 1988.	In Schedule 17, paragraph 80.
1990 c. 23.	The Access to Health Records Act 1990.	In section 1(1), the words from “but does not” to the end. In section 3, subsection (1)(a) to (e) and, in subsection (6)(a), the words “in the case of an application made otherwise than by the patient”.

		Section 4(1) and (2).
		In section 5(1)(a)(i), the words “of the patient or” and the word “other”.
		In section 10, in subsection (2) the words “or orders” and in subsection (3) the words “or an order under section 2(3) above”.
		In section 11, the definitions of “child” and “parental responsibility”.
1990 c. 37.	The Human Fertilisation and Embryology Act 1990.	Section 33(8).
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 10, paragraph 58.
1992 c. 13.	The Further and Higher Education Act 1992.	Section 86.
1992 c. 37.	The Further and Higher Education (Scotland) Act 1992.	Section 59.
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	In Schedule 6, paragraph 50.
1993 c. 10.	The Charities Act 1993.	Section 12.
1993 c. 21.	The Osteopaths Act 1993.	Section 38.
1994 c. 17.	The Chiropractors Act 1994.	Section 38.
1994 c. 19.	The Local Government (Wales) Act 1994.	In Schedule 13, paragraph 30.
1994 c. 33.	The Criminal Justice and Public Order Act 1994.	Section 161.
1994 c. 39.	The Local Government etc. (Scotland) Act 1994.	In Schedule 13, paragraph 154.

Part II

Revocations

<i>Number</i>	<i>Title</i>	<i>Extent of revocation</i>
S.I. 1991/1142.	The Data Protection Registration Fee Order 1991.	The whole Order.
S.I. 1991/1707 (N.I. 14).	The Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.	Part II.

S.I. 1992/3218 .	The Banking Co-ordination (Second Council Directive) Regulations 1992.	The Schedule. In Schedule 10, paragraphs 15 and 40.
S.I. 1993/1250 (N.I. 4).	The Access to Health Records (Northern Ireland) Order 1993.	In Article 2(2), the definitions of “child” and “parental responsibility”. In Article 3(1), the words from “but does not include” to the end. In Article 5, paragraph (1)(a) to (d) and, in paragraph (6)(a), the words “in the case of an application made otherwise than by the patient”. Article 6(1) and (2). In Article 7(1)(a)(i), the words “of the patient or” and the word “other”.
S.I. 1994/429 (N.I. 2).	The Health and Personal Social Services (Northern Ireland) Order 1994.	In Schedule 1, the entries relating to the Access to Personal Files and Medical Reports (Northern Ireland) Order 1991.
S.I. 1994/1696 .	The Insurance Companies (Third Insurance Directives) Regulations 1994.	In Schedule 8, paragraph 8.
S.I. 1995/755 (N.I. 2).	The Children (Northern Ireland) Order 1995.	In Schedule 9, paragraphs 177 and 191.
S.I. 1995/3275 .	The Investment Services Regulations 1995.	In Schedule 10, paragraphs 3 and 15.
S.I. 1996/2827 .	The Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations 1996.	In Schedule 8, paragraphs 3 and 26.
