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Make provision

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

SHARING FOR RESEARCH PURPOSES

1 Disclosure of information for research purposes

- (1) - This section applies to a public authority if—
- (a) - the authority holds information in the form of a dataset,
 - (b) - the dataset contains information which directly identifies one or more persons, and
 - (c) - the authority thinks the information in the dataset would, if combined with information in one or more other datasets held by one or more other persons, produce information which would be useful for the purposes of research which is in the public interest.
- (2) - The public authority may supply—
- (a) - the information by reference to which the person or persons are identified to an accredited indexer, and
 - (b) - a de-identified dataset created from the dataset mentioned in subsection (1)(b) to an accredited access facility for the accredited access facility to exercise the functions in subsection (4).
- (3) - A de-identified dataset is one in which each item of information by reference to which a person is identified in the dataset from which it has been created (“the original dataset”) has been replaced with a reference number which—
- (a) - has been generated by the person who held the original dataset, or
 - (b) - has been generated by an accredited indexer by comparing—
 - (i) - information of that kind supplied by the person who held the original dataset, and

- (ii) - information by reference to which a person or persons are identified in another dataset and which is supplied to the indexer by one or more other persons.
- (4) - The accredited access facility may –
- (a) - compare the de-identified dataset with one or more other de-identified datasets supplied by one or more other persons,
 - (b) - identify persons to whom two or more de-identified datasets apply,
 - (c) - create a dataset (“the final dataset”) which, for each person to whom two or more de-identified datasets apply, sets out the information about that person contained in each of those datasets, and
 - (d) - with the agreement of each person who supplied a dataset used to create the final dataset, supply the final dataset to an accredited researcher for the purposes of accredited research.
- (5) - If the de-identified datasets were created as mentioned in subsection (3)(a), the process of comparison mentioned in subsection (4)(a) may be made using an index created by an accredited indexer by comparing –
- (a) - the information supplied by the public authority under subsection (2)(a), and
 - (b) - information by reference to which a person or persons are identified in another dataset and which is supplied to the indexer by one or more other persons.
- (6) - An accredited indexer may supply information to a public authority or accredited access facility for the purposes of subsection (3) or (4).
- (7) - A public authority, an accredited indexer and an accredited access facility may do anything within subsections (2) to (6) even though two or more of the public authority, the accredited indexer and the accredited access facility are the same person.
- (8) - But subsection (7) applies only if the person has arrangements in place which are reasonably likely to prevent –
- (a) - an individual dealing with the original dataset from disclosing information in it, other than information mentioned in subsection (2)(a), to an individual exercising the functions of an accredited indexer in relation to the information within subsection (2)(a),
 - (b) - an individual dealing with the original dataset from disclosing information in it, other than information mentioned in subsection (2)(b), to an individual exercising the functions of an accredited access facility in relation to the information within subsection (2)(b),
 - (c) - an individual exercising the functions of an accredited indexer from disclosing information by reference to which a person is identified to an individual exercising the functions of an accredited access facility in relation to information about that person, or
 - (d) - an individual exercising the functions of an accredited access facility from disclosing a de-identified dataset to an individual exercising the functions of an accredited indexer in relation to that dataset.
- (9) - This section is subject to section 2.

2 Provisions supplementary to section 1

- (1) - A disclosure under section 1 does not breach –

- (a) - any obligation of confidence owed by the person making the disclosure, or
 - (b) - any other restriction on the disclosure of information (however imposed).
- (2) - But nothing in section 1 authorises information to be supplied if to do so would –
- (a) - contravene the Data Protection Act 1998, or
 - (b) - be prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.
- (3) - Section 1 does not limit the circumstances in which information may be supplied or otherwise disclosed apart from that section.
- (4) - A person within subsection (5) may charge an accredited researcher a fee for work done by that person under section 1 in response to a request by the researcher for the supply of a dataset under that section.
- (5) - The persons mentioned in subsection (4) are –
- (a) - a public authority,
 - (b) - an accredited indexer, and
 - (c) - an accredited access facility.
- (6) - A fee charged under subsection (4) by a public authority (including an accredited indexer or an accredited access facility which is a public authority) must not exceed the cost to the person of doing the work for which the fee is charged.

3 Bar on further disclosure of personal information

- (1) - Personal information received by a person (“P”) under section 1 may not be disclosed –
- (a) - by P, or
 - (b) - by any other person who has received it directly or indirectly from P.
- (2) - For the purposes of this Part “personal information” means information which relates to and identifies a particular person (including a body corporate).
- (3) - For the purposes of subsection (2) information identifies a particular person if the identity of that person –
- (a) - is specified in the information,
 - (b) - can be deduced from the information, or
 - (c) - can be deduced from the information taken together with any other information.
- (4) - Subsection (1) does not apply to a disclosure –
- (a) - which is required or permitted by any enactment (including section 1),
 - (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 purposes of a criminal investigation (whether or not in the United Kingdom),
 - (f) - which is made for the purposes of legal proceedings (whether civil or criminal and whether or not in the United Kingdom), or

- (g) - which is made with the consent of the person to whom it relates.
- (5) - In subsection (4)(a) “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.
- (6) - A person who contravenes subsection (1) is guilty of an offence.
- (7) - It is a defence for a person charged with an offence under subsection (6) to prove that the person reasonably believed that the disclosure was lawful.
- (8) - A person who is guilty of an offence under subsection (6) is liable on conviction on indictment to imprisonment for a term not exceeding two years, to a fine or to both.
- (9) - A person who is guilty of an offence under subsection (6) 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;
 - (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.
- (10) - In the application of subsection (9)(a) to an offence committed before the coming into force of section 154(1) of the Criminal Justice Act 2003 the reference to 12 months is to be read as a reference to 6 months.
- (11) - This section does not apply to personal information disclosed under section 1 by Her Majesty’s Revenue and Customs.

4 Information disclosed by Her Majesty’s Revenue and Customs

- (1) - Personal information disclosed by Her Majesty’s Revenue and Customs under section 1 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 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.

5 Accreditation for the purposes of this Part

- (1) - The Statistics Board –
- (a) - may accredit persons as accredited indexers, accredited access facilities or accredited researchers for the purposes of this Part,
 - (b) - may accredit research for those purposes, and
 - (c) - may withdraw accreditation given under paragraph (a) or (b).
- (2) - The Statistics Board –
- (a) - must establish and publish conditions to be met by a person for accreditation under subsection (1)(a),
 - (b) - must establish and publish conditions to be met by research for accreditation under subsection (1)(b), and
 - (c) - must establish and publish grounds for the withdrawal of accreditation under subsection (1)(c).
- (3) - The conditions established and published under subsection (2)(a) must, in the case of a person seeking accreditation as an accredited indexer or accredited access facility, include a condition that the person is a fit and proper person to exercise the functions in question.
- (4) - The conditions established and published under subsection (2)(b) must include a condition that the research is in the public interest.
- (5) - Before publishing conditions under subsection (2)(a) or (b) or grounds under subsection (2)(c), the Statistics Board must consult such persons as it thinks appropriate.
- (6) - The Statistics Board must maintain and publish –
- (a) - a register of accredited indexers,
 - (b) - a register of accredited access facilities, and
 - (c) - a register of accredited researchers.
- (7) - A register under any paragraph of subsection (6) may be combined with a register under any other paragraph of that subsection.
- (8) - Anything required by this section to be published must be published in such manner as the Statistics Board thinks appropriate for bringing it to the attention of persons likely to be affected by it.

6 Delegation of functions of Statistics Board

- (1) - The Statistics Board may delegate any of its functions under this Part to another person if the Board thinks that the person –
- (a) - is a fit and proper person to exercise the function in question, and
 - (b) - has expertise in statistical research and analysis.
- (2) - Subsection (1) does not affect the operation of section 36 of the Statistics and Registration Service Act 2007 (delegation of Board’s functions).

7 Power to amend this Part

- (1) - The Minister for the Cabinet Office may by regulations amend this Part to make provision which—
 - (a) - is about the supply of information by a public authority, and
 - (b) - complies with subsections (2) to (4).
- (2) - Regulations under subsection (1) may—
 - (a) - modify the procedures in section 1, or
 - (b) - provide for additional procedures whereby information may be supplied by a public authority.
- (3) - Any procedure for which provision is made by virtue of subsection (1) must—
 - (a) - enable the creation of information using a dataset held by a public authority and one or more other datasets held by one or more other persons,
 - (b) - enable the information that is created to be supplied only for accredited research purposes,
 - (c) - ensure that, where the datasets contain information that directly identifies a person (“identity information”), the identity information is removed before the information is supplied, and
 - (d) - involve a person or persons who are accredited in the removal of identity information, the creation of information for supply and the supply of that information.
- (4) - Regulations under subsection (1) must have the effect that—
 - (a) - section 2 applies in relation to the supply of information under a procedure for which provision is made by virtue of subsection (1),
 - (b) - sections 3 and 4 apply in relation to personal information supplied under that procedure,
 - (c) - section 5 applies in relation to the accreditation of persons and research for the purposes of that procedure, and
 - (d) - section 6 applies in relation to the resulting functions of the Statistics Board.
- (5) - Before making regulations under subsection (1) the Minister for the Cabinet Office must consult—
 - (a) - the Statistics Board,
 - (b) - the Information Commissioner,
 - (c) - the Scottish Ministers,
 - (d) - the Welsh Ministers,
 - (e) - the Department of Finance and Personnel in Northern Ireland, and
 - (f) - such other persons as the Minister thinks appropriate.
- (6) - The relevant Minister may only make regulations under subsection (1) with the consent of the Treasury in a case where the regulations could affect the supply of information by Her Majesty’s Revenue and Customs.
- (7) - Regulations under subsection (1)—
 - (a) - are to be made by statutory instrument;
 - (b) - may make incidental, supplementary, consequential, transitional or transitory provision or savings.

- (8) - A statutory instrument containing regulations under subsection (1) 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 Interpretation of this Part

- (1) - In this Part—
- “accredited access facility”, “accredited indexer” and “accredited researcher” means a person who is accredited as such under section 5(1)(a);
 - “accredited research” means research that is accredited under section 5(1)(b);
 - “dataset” means a collection of information;
 - “personal information” has the meaning given by section 3(2).
- (2) - Subject to the following provisions of this section, in this Part “public authority” means a person with functions of a public nature.
- (3) - Neither of the following is a public authority for the purposes of this Part—
- (a) - a person providing health services;
 - (b) - a person providing services for the purposes of adult social care.
- (4) - In subsection (3)(a) “health services” means—
- (a) - services which must or may be provided as part of the health service as defined by section 275(1) of the National Health Service Act 2006 or section 206(1) of the National Health Service (Wales) Act 2006,
 - (b) - services which must or may be provided as part of the health service as defined by section 108(1) of the National Health Service (Scotland) Act 1978, or
 - (c) - services designed to secure any of the objects of section 2(1)(a) of the Health and Social Care (Reform) Act (Northern Ireland) 2009.
- (5) - In subsection (3)(b) “adult social care” includes all forms of personal care and other practical assistance provided for individuals who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or assistance.