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### **PART 1**

#### FRAUD AGAINST THE PUBLIC SECTOR

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Schedule – Specified persons -

A  
**B I L L**

TO

Make provision

**B**E 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**

FRAUD AGAINST THE PUBLIC SECTOR

**1 Disclosure of information to combat fraud against the public sector**

- (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 the taking of action in connection with fraud against a public authority.
- (2) - In this section “fraud against a public authority” means an offence under section 1 of the Fraud Act 2006 which involves—
  - (a) - loss to a public authority, or
  - (b) - the exposure of a public authority to a risk of loss.
- (3) - In subsection (2) “loss” has the same meaning as in the Fraud Act 2006 (see section 5 of that Act).
- (4) - The reference in subsection (1) to taking action in connection with fraud against a public authority includes any of the following—
  - (a) - preventing fraud of that kind;
  - (b) - detecting fraud of that kind;
  - (c) - investigating fraud of that kind;
  - (d) - prosecuting fraud of that kind;
  - (e) - bringing civil proceedings as a result of fraud of that kind;
  - (f) - taking administrative action as a result of fraud of that kind.
- (5) - In this Part— -  
“public authority” means— -

- (a) - a person or body exercising functions of a public nature in the United Kingdom,
- (b) - a person or body entirely or substantially funded from public money,
- (c) - an office-holder appointed by a person or body falling within paragraph (a), or
- (d) - a body more than half of whose governing body or members are appointed by a person or body falling within paragraph (a);

“specified person” means a person listed in the Schedule.

- (6) - In the case of a person (“P”) who is within the Schedule merely because of providing services to another specified person, the reference in subsection (1) to the functions of a specified person is limited to the functions P exercises for that purpose.

## 2 Further provisions about power in section 1

- (1) - Section 1 does not apply to personal information consisting of information as to—
  - (a) - a person’s racial or ethnic origin,
  - (b) - a person’s political opinions,
  - (c) - a person’s religious beliefs or other beliefs of a similar nature, or
  - (d) - whether a person is a member of a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
- (2) - For the purposes of this Part information is “personal information” if—
  - (a) - it relates to and identifies a particular person (including a body corporate), but
  - (b) - it is not information about the internal administrative arrangements of a specified person.
- (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) - Information disclosed to a specified person under section 1 may only be used by that person for the purposes for which it was disclosed.
- (5) - 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).
- (6) - But nothing in section 1 authorises the making of a disclosure which—
  - (a) - contravenes the Data Protection Act 1998, or
  - (b) - is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.
- (7) - Section 1 does not limit the circumstances in which information may be disclosed apart from that section.

### 3 Confidentiality 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) - 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.
- (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 that the disclosure was lawful.
- (5) - A person who is guilty of an offence under subsection (3) 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 (3) 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.
- (7) - In the application of subsection (6)(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.
- (8) - 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 Code of practice**

- (1) - The relevant Minister must issue a code of practice about –
  - (a) - the disclosure of information under section 1, and
  - (b) - the use of information disclosed under that section.
- (2) - A specified person must have regard to the code of practice in –
  - (a) - disclosing information under section 1, and
  - (b) - using information disclosed under that section.
- (3) - The relevant Minister may from time to time revise and re-issue the code of practice.
- (4) - Before issuing or reissuing the code of practice the relevant Minister must consult –
  - (a) - the Information Commissioner, and
  - (b) - such other persons as the relevant Minister thinks appropriate.
- (5) - As soon as is reasonably practicable after issuing or reissuing the code of practice the relevant Minister must lay a copy of it before Parliament.

## **6 Power to amend the Schedule**

- (1) - The relevant Minister may by regulations amend the Schedule so as to –
  - (a) - add a public authority or description of public authority,
  - (b) - remove a person,
  - (c) - remove persons providing services to a specified person, or
  - (d) - remove persons providing services to specified persons of a particular description.
- (2) - In determining whether to make regulations under subsection (1) in relation to a person or description of person the relevant Minister 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 under subsection (1)(b), whether that person, or any person providing services to that person, has had regard to the code of practice under section 5 as required by that section.
- (3) - Before making regulations under subsection (1) the relevant Minister must consult –
  - (a) - the Information Commissioner, and
  - (b) - such other persons as the relevant Minister thinks appropriate.

## **7 Duty to review operation of Part**

- (1) - As soon as is reasonably practicable after the end of three years beginning with the day on which this Part comes into force, the relevant Minister must review its operation for the purposes of deciding whether it should be amended or repealed.
- (2) - Before carrying out the review the relevant Minister must publish the criteria by reference to which that determination will be made.
- (3) - In carrying out the review the relevant Minister must consult –
  - (a) - the Information Commissioner, and
  - (b) - such other persons as the relevant Minister thinks appropriate.
- (4) - Once the review is completed the relevant Minister must –
  - (a) - publish a report on its outcome, and
  - (b) - lay a copy of the report before Parliament.
- (5) - If as a result of the review the relevant Minister decides that this Part should be amended or repealed, the relevant Minister may by regulations amend or repeal it (as the case may be).
- (6) - The relevant Minister may only make regulations under subsection (5) with the consent of the Treasury in a case where the regulations could affect the disclosure of information by Her Majesty’s Revenue and Customs.
- (7) - Anything required to be published by this section is to be published in such manner as the relevant Minister thinks fit.

## **8 Regulations under this Part**

- (1) - Regulations under this Part are to be made by statutory instrument.
- (2) - Regulations under this Part –
  - (a) - may make different provision for different purposes;
  - (b) - may contain consequential, supplementary, transitional or transitory provision or savings.
- (3) - The provision that may be made by virtue of subsection (2)(b) includes provision amending, repealing or revoking any provision of this Act or an enactment passed or made before or in the same session as this Act.
- (4) - A statutory instrument containing regulations under this Part may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (5) - If a draft of a statutory instrument containing regulations under section 6 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.

## **9 Interpretation of Part**

In this Part – -

“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;

“functions” means functions of a public nature;

“personal information” has the meaning given by section 2(2);

“public authority” has the meaning given by section 1(5);

“relevant Minister” means the Secretary of State or the Chancellor of the Duchy of Lancaster;

“specified person” has the meaning given by section 1(5).

## SCHEDULE

Section 1

### SPECIFIED PERSONS

- 1 The Secretary of State for the Home Department.
- 2 The Lord Chancellor.
- 3 The Secretary of State for Justice.
- 4 The Secretary of State for Business, Innovation and Skills.
- 5 The Secretary of State for Work and Pensions.
- 6 The Secretary of State for Transport.
- 7 Her Majesty's Revenue and Customs.
- 8 A county council in England.
- 9 A district council in England.
- 10 A London borough council.
- 11 The Common Council of the City of London in its capacity as a local authority.
- 12 The Council of the Isles of Scilly.
- 13 The Greater London Authority.
- 14 A county council in Wales.
- 15 A county borough council.
- 16 A council constituted under section 2 of the Local Government etc (Scotland) Act 1994.
- 17 A district council in Northern Ireland.
- 18 The Student Loans Company.
- 19 A person providing services to a specified person.