Draft Order laid before Parliament under section 67(4) of the Data Protection Act 1998 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

DATA PROTECTION

The Data Protection (Processing of Sensitive Personal Data) Order 2009

Made - - - -

Coming into force - - In accordance with article 1(1)

The Secretary of State, in exercise of the powers conferred by section 67(2) of and paragraph 10 of Schedule 3 to the Data Protection Act 1998(**a**), makes the following Order;

In accordance with section 67(3) of the Data Protection Act 1998, the Secretary of State has consulted the Information Commissioner;

In accordance with section 67(4) of the Data Protection Act 1998, a draft of this instrument was laid before Parliament and approved by a resolution of each house of Parliament;

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Data Protection (Processing of Sensitive Personal Data) Order 2009 and shall come into force on the day after the day on which it is made.

(2) In this Order "prison" includes young offender institutions, remand centres and secure training centres and "prisoner" includes a person detained in a young offender institution, remand centre or secure training centre.

Condition relevant for purpose of the First Principle: processing of sensitive personal data

2.—(1) For the purposes of paragraph 10 of Schedule 3 to the Data Protection Act 1998, the circumstance specified in paragraph (2) is a circumstance in which sensitive personal data may be processed.

(**a**) 1998 c. 29.

(2) The processing of information about a prisoner, including information relating to the prisoner's release from prison, for the purpose of informing a Member of Parliament about the prisoner and arrangements for the prisoner's release.

Signed by authority of the Secretary of State

Minister of State
Ministry of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

"Sensitive personal data" is defined in section 2(g) and (h) of the Data Protection Act 1998 to include information as to the commission or alleged commission by a person of any offence, or any proceedings for any offence committed or alleged to have been committed by that person, the disposal of such proceedings or the sentence of any court in such proceedings.

The first data protection principle, set out in paragraph 1 of Schedule 1 to the Act, prohibits the processing of "sensitive personal data" unless one of the conditions in Schedule 3 to the Act is met. The condition set out in paragraph 10 of that Schedule is that the personal data are processed in circumstances specified in an order made by the Secretary of State.

This Order specifies that information about a prisoner may be processed for the purpose of informing a Member of Parliament (MP) about that prisoner and arrangements for their release. In practice information will only be released to a MP pursuant to this Order if they have entered into a confidentiality agreement with the Ministry of Justice whereby the MP agrees not to further disclose the information. The information that will be released to the MP will be restricted to certain high risk offenders and will include the name of the prisoner, the offence they committed, details of the release date and details of any licence conditions to which the prisoner is to be subject.

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