



# UK Withdrawal from the European Union (Continuity) (Scotland) Act 2021

2021 asp 4

## PART 2

### ENVIRONMENT

#### CHAPTER 2

##### ENVIRONMENTAL GOVERNANCE

###### *Disclosure of information*

### **39 Disclosure of information to Environmental Standards Scotland**

- (1) No enactment or rule of law prohibiting or restricting the disclosure of information prevents a public authority from providing Environmental Standards Scotland with information necessary for the exercise of Environmental Standards Scotland's functions in accordance with—
  - (a) the authority's duty to co-operate under section 23(1), or
  - (b) an information notice issued under section 24(1).
- (2) But nothing in this Chapter requires a public authority to provide Environmental Standards Scotland with information that the authority—
  - (a) would be entitled to refuse to provide in civil proceedings on grounds of confidentiality of communications, or
  - (b) would be entitled, or required by any rule of law, to refuse to provide in civil proceedings on grounds of public interest immunity.
- (3) Nothing in this Chapter requires or authorises a disclosure of information which, although made in accordance with a duty or a power provided for in this Chapter, would contravene the data protection legislation.
- (4) In subsection (3), “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).

#### **40 Confidentiality of proceedings**

- (1) Environmental Standards Scotland must not disclose—
- (a) information obtained under section 23(1) or 24(1), or
  - (b) correspondence between Environmental Standards Scotland and a public authority that—
    - (i) relates to a particular information notice or compliance notice, or to the preparation of a particular improvement report,
    - (ii) is, or contains, such a notice or an unpublished draft of such a report.
- (2) Subsection (1) does not apply to—
- (a) a disclosure (other than a disclosure of an information notice, a compliance notice or an unpublished draft of an improvement report) made with the consent of the public authority who provided the information or correspondence,
  - (b) a disclosure made for purposes connected with the exercise of Environmental Standards Scotland's functions,
  - (c) a disclosure made to the Office for Environmental Protection, or any other environmental governance body, for purposes connected with the exercise of an environmental governance function,
  - (d) a disclosure of information, or correspondence, that relates only to a matter in relation to which Environmental Standards Scotland does not intend to take any further action under this Chapter,
  - (e) a disclosure made for the purposes of civil proceedings,
  - (f) a disclosure made for the purposes of the investigation or prosecution of any offence or suspected offence or for the purposes of the prevention or detection of crime,
  - (g) a disclosure made in pursuance of an order of a court or tribunal,
  - (h) a disclosure made in accordance with any other enactment requiring or permitting the disclosure.