



Financial Services Act 1986

1986 CHAPTER 60

PART VIII

RESTRICTIONS ON DISCLOSURE OF INFORMATION

179 Restrictions on disclosure of information

- (1) Subject to section 180 below, information which is restricted information for the purposes of this section and relates to the business or other affairs of any person shall not be disclosed by a person mentioned in subsection (3) below (" the primary recipient") or any person obtaining the information directly or indirectly from him without the consent of the person from whom the primary recipient obtained the information and if different, the person to whom it relates.
- (2) Subject to subsection (4) below, information is restricted information for the purposes of this section if it was obtained by the primary recipient for the purposes of, or in the discharge of his functions under, this Act or any rules or regulations made under this Act (whether or not by virtue of any requirement to supply it made under those provisions).
- (3) The persons mentioned in subsection (1) above are—
 - (a) the Secretary of State;
 - (b) any designated agency, transferee body or body administering a scheme under section 54 above ;
 - (c) the Director General of Fair Trading ;
 - (d) the Chief Registrar of friendly societies;
 - (e) the Registrar of Friendly Societies for Northern Ireland ;
 - (f) the Bank of England ;
 - (g) any member of the Tribunal;
 - (h) any person appointed or authorised to exercise any powers under section 94, 106 or 177 above ; and
 - (i) any officer or servant of any such person.

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- (4) Information shall not be treated as restricted information for the purposes of this section if it has been made available to the public by virtue of being disclosed in any circumstances in which or for any purpose for which disclosure is not precluded by this section.
- (5) Subject to section 180 below, information obtained by the competent authority in the exercise of its functions under Part IV of this Act or received by it pursuant to a Community obligation from any authority exercising corresponding functions in another member State shall not be disclosed without the consent of the person from whom the competent authority obtained the information and, if different, the person to whom it relates.
- (6) Any person who contravenes this section shall be guilty of an offence and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both ;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.

180 Exceptions from restrictions on disclosure

- (1) Section 179 above shall not preclude the disclosure of information—
 - (a) with a view to the institution of or otherwise for the purposes of criminal proceedings ;
 - (b) with a view to the institution of or otherwise for the purposes of any civil proceedings arising under or by virtue of this Act or proceedings before the Tribunal;
 - (c) for the purpose of enabling or assisting the Secretary of State to exercise any powers conferred on him by this Act or by the enactments relating to companies insurance companies or insolvency or for the purpose of enabling or assisting any inspector appointed by him under the enactments relating to companies to discharge his functions;
 - (d) for the purpose of enabling or assisting the Department of Economic Development for Northern Ireland to exercise any powers conferred on it by the enactments relating to companies or insolvency or for the purpose of enabling or assisting any inspector appointed by it under the enactments relating to companies to discharge his functions;
 - (e) for the purpose of enabling or assisting a designated agency or transferee body or the competent authority to discharge its functions under this Act or of enabling or assisting the body administering a scheme under section 54 above to discharge its functions under the scheme;
 - (f) for the purpose of enabling or assisting the Bank of England to discharge its functions under the Banking Act 1979 or any other functions ;
 - (g) for the purpose of enabling or assisting the Deposit Protection Board to discharge its functions under that Act;
 - (h) for the purpose of enabling or assisting the Chief Registrar of friendly societies or the Registrar of Friendly Societies for Northern Ireland to discharge his functions under this Act or under the enactments relating to friendly societies or building societies ;
 - (i) for the purpose of enabling or assisting the Industrial Assurance Commissioner or the Industrial Assurance Commissioner for Northern

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- Ireland to discharge his functions under the enactments relating to industrial assurance;
- (j) for the purpose of enabling or assisting the Insurance Brokers Registration Council to discharge its functions under the Insurance Brokers (Registration) Act 1977;
 - (k) for the purpose of enabling or assisting an official receiver to discharge his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a body which is for the time being a recognised professional body for the purposes of section 391 of the Insolvency Act 1986 to discharge its functions as such;
 - (l) for the purpose of enabling or assisting the Building Societies Commission to discharge its functions under the Building Societies Act 1986 ;
 - (m) for the purpose of enabling or assisting the Director General of Fair Trading to discharge his functions under this Act;
 - (n) for the purpose of enabling or assisting a recognised self-regulating organisation, recognised investment exchange, recognised professional body, or recognised clearing house to discharge its functions as such;
 - (o) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise by a solicitor, auditor, accountant, valuer or actuary of his professional duties ;
 - (p) for the purpose of enabling or assisting any person appointed or authorised to exercise any powers under section 94, 106 or 177 above to discharge his functions ;
 - (q) for the purpose of enabling or assisting an auditor of an authorised person or a person approved under section 108 above to discharge his functions ;
 - (r) if the information is or has been available to the public from other sources;
 - (s) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained; or
 - (t) in pursuance of any Community obligation.
- (2) Section 179 above shall not preclude the disclosure of information to the Secretary of State or to the Treasury if the disclosure is made in the interests of investors or in the public interest.
- (3) Subject to subsection (4) below, section 179 above shall not preclude the disclosure of information for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.
- (4) An order under subsection (3) above designating an authority for the purposes of that subsection may—
- (a) impose conditions subject to which the disclosure of information is permitted by that subsection ; and
 - (b) otherwise restrict the circumstances in which that subsection permits disclosure.
- (5) Section 179 above shall not preclude the disclosure—
- (a) of any information contained in an unpublished report of the Tribunal which has been made available to any person under this Act, by the person to whom it was made available or by any person obtaining the information directly or indirectly from him ;

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- (b) of any information contained in any notice or copy of a notice served under this Act, notice of the contents of which has not been given to the public, by the person on whom it was served or any person obtaining the information directly or indirectly from him;
 - (c) of any information contained in the register kept under section 102 above by virtue of subsection (1)(e) of that section, by a person who has inspected the register under section 103(2) or (3) above or any person obtaining the information directly or indirectly from him.
- (6) Section 179 above shall not preclude the disclosure of information for the purpose of enabling or assisting an authority in a country or territory outside the United Kingdom to exercise functions corresponding to those of the Secretary of State under this Act or the Insurance Companies Act 1982 or to those of the Bank of England under the Banking Act 1979 or to those of the competent authority under this Act or any other functions in connection with rules of law corresponding to the provisions of the Company Securities (Insider Dealing) Act 1985 or Part VII of this Act.
- (7) Section 179 above shall not preclude the disclosure of information by the Director General of Fair Trading or any officer or servant of his or any person obtaining the information directly or indirectly from the Director or any such officer or servant if the information was obtained by the Director or any such officer or servant for the purposes of or in the discharge of his functions under this Act (whether or not he was the primary recipient of the information within the meaning of section 179 above) and the disclosure is made—
- (a) for the purpose of enabling or assisting the Director, the Secretary of State or any other Minister, the Monopolies and Mergers Commission or any Northern Ireland department to discharge any function conferred on him or them by the Fair Trading Act 1973 (other than Part II or III of that Act), the Restrictive Trade Practices Act 1976 or the Competition Act 1980; or
 - (b) for the purposes of any civil proceedings under any of those provisions;
- and information shall not be treated as restricted information for the purposes of section 179 above if it has been made available to the public by virtue of this subsection.
- (8) The Secretary of State may by order modify the application of any provision of this section so as—
- (a) to prevent the disclosure by virtue of that provision ; or
 - (b) to restrict the extent to which disclosure is permitted by virtue of that provision,
- of information received by a person specified in the order pursuant to a Community obligation from a person exercising functions in relation to a collective investment scheme who is also so specified.
- (9) An order under subsection (3) or (8) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

181 Directions restricting disclosure of information overseas

- (1) If it appears to the Secretary of State to be in the public interest to do so, he may give a direction prohibiting the disclosure to any person in a country or territory outside the United Kingdom which is specified in the direction, or to such persons in such a

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country or territory as may be so specified, of such information to which this section applies as may be so specified.

- (2) A direction under subsection (1) above—
- (a) may prohibit disclosure of the information to which it applies by all persons or only by such persons or classes of person as may be specified in it; and
 - (b) may prohibit such disclosure absolutely or in such cases or subject to such conditions as to consent or otherwise as may be specified in it;
- and a direction prohibiting disclosure by all persons shall be published by the Secretary of State in such manner as appears to him to be appropriate.
- (3) This section applies to any information relating to the business or other affairs of any person which was obtained (whether or not by virtue of any requirement to supply it) directly or indirectly—
- (a) by a designated agency, a transferee body, the competent authority or any person appointed or authorised to exercise any powers under section 94, 106 or 177 above (or any officer or servant of any such body or person) for the purposes or in the discharge of any functions of that body or person under this Act or any rules or regulations made under this Act or of any monitoring agency functions; or
 - (b) by a recognised self-regulating organisation, a recognised professional body, a recognised investment exchange or a recognised clearing house other than an overseas investment exchange or clearing house (or any officer or servant of such an organisation, body, investment exchange or clearing house) for the purposes or in the discharge of any of its functions as such or of any monitoring agency functions.
- (4) In subsection (3) above " monitoring agency functions" means any functions exercisable on behalf of another body by virtue of arrangements made pursuant to paragraph 4(2) of Schedule 2, paragraph 4(6) of Schedule 3, paragraph 3(2) of Schedule 4 or paragraph 3(2) of Schedule 7 to this Act or of such arrangements as are mentioned in section 39(4)(6) above.
- (5) A direction under this section shall not prohibit the disclosure by any person other than a person mentioned in subsection (3) above of—
- (a) information relating only to the affairs of that person; or
 - (b) information obtained by that person otherwise than directly or indirectly from a person mentioned in subsection (3) above.
- (6) A direction under this section shall not prohibit the disclosure of information in pursuance of any Community obligation.
- (7) A person who knowingly discloses information in contravention of a direction under this section shall be guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both ;
 - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.
- (8) A person shall not be guilty of an offence under this section by virtue of anything done or omitted to be done by him outside the United Kingdom unless he is a British citizen, a British Dependent Territories citizen, a British Overseas citizen or a body corporate incorporated in the United Kingdom.

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182 Disclosure of information under enactments relating to fair trading, banking, insurance and companies

The enactments mentioned in Schedule 13 to this Act shall have effect with the amendments there specified (which relate to the circumstances in which information obtained under those enactments may be disclosed).