



# Banking Act 1987

## 1987 CHAPTER 22

### PART V

#### RESTRICTION ON DISCLOSURE OF INFORMATION

#### **82 Restricted information**

- (1) Except as provided by the subsequent provisions of this Part of this Act—
  - (a) no person who under or for the purposes of this Act receives information relating to the business or other affairs of any person; and
  - (b) no person who obtains any such information directly or indirectly from a person who has received it as aforesaid,shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received as aforesaid.
- (2) This section does not apply to information which at the time of the disclosure is or has already been made available to the public from other sources or to information in the form of a summary or collection of information framed as not to enable information relating to any particular person to be ascertained from it.
- (3) Any person who discloses information in contravention of 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.

#### **83 Disclosure for facilitating discharge of functions by the Bank**

- (1) Section 82 above does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Bank to discharge its functions under this Act.

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- (2) Without prejudice to the generality of subsection (1) above, that section does not preclude the disclosure of information by the Bank to the auditor of an authorised institution or former authorised institution if it appears to the Bank that disclosing the information would enable or assist the Bank to discharge the functions mentioned in that subsection or would otherwise be in the interests of depositors.
- (3) If, in order to enable or assist the Bank properly to discharge any of its functions under this Act, the Bank considers it necessary to seek advice from any qualified person on any matter of law, accountancy, valuation or other matter requiring the exercise of professional skill, section 82 above does not preclude the disclosure by the Bank to that person of such information as appears to the Bank to be necessary to ensure that he is properly informed with respect to the matters on which his advice is sought.

#### **84 Disclosure for facilitating discharge of functions by other supervisory authorities**

- (1) Section 82 above does not preclude the disclosure by the Bank of information to any person specified in the first column of the following Table if the Bank considers that the disclosure would enable or assist that person to discharge the functions specified in relation to him in the second column of that Table.

TABLE

<i>Person</i>	<i>Functions</i>
The Secretary of State.	Functions under the Insurance Companies Act 1982, Part XIV of the Companies Act 1985, Part XIII of the Insolvency Act 1986 or the Financial Services Act 1986.
An inspector appointed by the Secretary of State.	Functions under Part XIV of the Companies Act 1985.
A person authorised by the Secretary of State under section 44 of the Insurance Companies Act 1982.	Functions under that section.
The Chief Registrar of friendly societies, the Registrar of Friendly Societies for Northern Ireland and the Assistant Registrar of Friendly Societies for Scotland.	Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.
The Industrial Assurance Commissioner and the Industrial Assurance Commissioner for Northern Ireland.	Functions under the enactments relating to industrial assurance.
The Building Societies Commission.	Functions under the Building Societies Act 1986 and protecting the interests of the shareholders and depositors of building societies.
The Director General of Fair Trading.	Functions under the Consumer Credit Act 1974.

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<i>Person</i>	<i>Functions</i>
A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986).	Functions under the Financial Services Act 1986.
A recognised self-regulating organisation, recognised professional body, recognised investment exchange, recognised clearing house or recognised self-regulating organisation for friendly societies (within the meaning of the Financial Services Act 1986).	Functions in its capacity as an organisation, body, exchange or clearing house recognised under the Financial Services Act 1986.
A person appointed under section 94, 106 or 177 of the Financial Services Act 1986.	Functions under the sections mentioned in column 1.
A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986).	Functions in its capacity as such a body under the Insolvency Act 1986.
The Department of Economic Development in Northern Ireland.	Functions under Part XV of the Companies (Northern Ireland) Order 1986.
An inspector appointed by that Department.	Functions under Part XV of that Order.
The Official Receiver or, in Northern Ireland, the Official Assignee for company liquidations or for bankruptcy.	Investigating the cause of the failure of an authorised institution or former authorised institution in respect of which a winding-up order, bankruptcy order or order of adjudication of bankruptcy has been made.

(2) The Treasury may after consultation with the Bank by order amend the Table in subsection (1) above by—

- (a) adding any person exercising regulatory functions and specifying functions in relation to that person;
- (b) removing any person for the time being specified in the Table; or
- (c) altering the functions for the time being specified in the Table in relation to any person;

and the Treasury may also after consultation with the Bank by order restrict the circumstances in which, or impose conditions subject to which, disclosure is permitted in the case of any person for the time being specified in the Table.

(3) An order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Section 82 above does not preclude the disclosure by any person specified in the first column of the Table in subsection (1) above of information obtained by him by virtue of that subsection if he makes the disclosure with the consent of the Bank and for the purpose of enabling or assisting him to discharge any functions specified in relation to him in the second column of that Table; and before deciding whether to give its consent

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to such a disclosure by any person the Bank shall take account of such representations made by him as to the desirability of or the necessity for the disclosure.

- (5) Section 82 above does not preclude the disclosure by the Bank of information to the Treasury if disclosure appears to the Bank to be desirable or expedient in the interests of depositors or in the public interest; and that section does not preclude the disclosure by the Bank of information to the Secretary of State for purposes other than those specified in relation to him in subsection (1) above if the disclosure is made with the consent of the Treasury and—
- (a) the information relates to an authorised institution or former authorised institution and does not enable the financial affairs of any other identifiable person to be ascertained and disclosure appears to the Bank to be necessary in the interests of depositors or in the public interest; or
  - (b) in any other case, disclosure appears to the Bank to be necessary in the interests of depositors.
- (6) Section 82 above does 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—
- (a) functions corresponding to those of—
    - (i) the Bank under this Act;
    - (ii) the Secretary of State under the Insurance Companies Act 1982, Part XIII of the Insolvency Act 1986 or the Financial Services Act 1986; or
    - (iii) the competent authority under Part IV of the Financial Services Act 1986;
  - (b) functions in connection with rules of law corresponding to any of the provisions of the Company Securities (Insider Dealing) Act 1985 or Part VII of the Financial Services Act 1986; or
  - (c) supervisory functions in respect of bodies carrying on business corresponding to that of building societies.

## **85 Other permitted disclosures**

- (1) Section 82 above does not preclude the disclosure of information—
- (a) for the purpose of enabling or assisting the Board of Banking Supervision or the Deposit Protection Board or any other person to discharge its or his functions under this Act;
  - (b) for the purpose of enabling or assisting a person to do anything which he is required to do in pursuance of a requirement imposed under section 39(1) (b) above;
  - (c) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise;
  - (d) in connection with any other proceedings arising out of this Act;
  - (e) with a view to the institution of, or otherwise for the purposes of, proceedings under section 7 or 8 of the Company Directors Disqualification Act 1986 in respect of a director or former director of an authorised institution or former authorised institution;
  - (f) in connection with any proceedings in respect of an authorised institution or former authorised institution under the Bankruptcy (Scotland) Act 1985 or Parts I to VII or IX to XI of the Insolvency Act 1986 which the Bank has instituted or in which it has a right to be heard;

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- (g) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of his professional duties by an auditor of an authorised institution or former authorised institution or an accountant or other person nominated or approved for the purposes of section 39(1)(b) above or appointed under section 41 above;
  - (h) in pursuance of a Community obligation.
- (2) Section 82 above does not preclude the disclosure by the Bank to the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Lord Advocate, a procurator fiscal or a constable of information obtained by virtue of section 41, 42 or 43 above or of information in the possession of the Bank as to any suspected contravention in relation to which the powers conferred by those sections are exercisable.
- (3) Section 82 above does not preclude the disclosure of information by the Deposit Protection Board to any person or body responsible for a scheme for protecting depositors or investors (whether in the United Kingdom or elsewhere) similar to that for which provision is made by Part II of this Act if it appears to the Board that disclosing the information would enable or assist the recipient of the information or the Board to discharge his or its functions.

## **86 Information supplied to Bank by relevant overseas authority**

Section 82 above applies also to information which has been supplied to the Bank for the purposes of its functions under this Act by a relevant supervisory authority in a country or territory outside the United Kingdom but no such information shall be disclosed except as provided in that section or for the purpose of enabling or assisting the Bank to discharge those functions or with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Act or otherwise.

## **87 Disclosure of information obtained under other Acts**

- (1) After section 174(3) of the Consumer Credit Act 1974 there shall be inserted—
- “(3A) Subsections (1) and (2) do not apply to any disclosure of information by the Director to the Bank of England for the purpose of enabling or assisting the Bank to discharge its functions under the Banking Act 1987 or the Director to discharge his functions under this Act.”
- (2) Information disclosed to the Bank under subsection (1) of section 449 of the Companies Act 1985 for the purpose of enabling or assisting it to discharge its functions under this Act or in its capacity as a competent authority under subsection (3) of that section may be disclosed—
- (a) with the consent of the Secretary of State, in any case in which information to which section 82 applies could be disclosed by virtue of section 84(1) or (2) above; and
  - (b) in any case in which information to which section 82 above applies could be disclosed by virtue of any of the other provisions of this Part of this Act.
- (3) Information disclosed to the Bank under paragraph (1) of Article 442 of the Companies (Northern Ireland) Order 1986 for the purpose of enabling or assisting it to discharge its functions under this Act or in its capacity as a competent authority under paragraph (3) of that Article may be disclosed—

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- (a) with the consent of the Secretary of State, in any case in which information to which section 82 above applies could be disclosed by virtue of section 84(1) or (2) above; and
  - (b) in any case in which information to which section 82 above applies could be disclosed by virtue of any of the other provisions of this Part of this Act.
- (4) Any information which has been lawfully disclosed to the Bank may be disclosed by it to the Board of Banking Supervision so far as necessary for enabling or assisting the Board to discharge its functions under this Act.