



# Utilities Act 2000

## 2000 CHAPTER 27

### PART VI

#### MISCELLANEOUS AND SUPPLEMENTARY

##### *Miscellaneous*

#### **105 General restrictions on disclosure of information.**

- (1) Information which—
- (a) has been obtained under or by virtue of the provisions of this Act, Part I of the 1986 Act or Part I of the 1989 Act; and
  - (b) relates to the affairs of any individual or to any particular business,
- shall not be disclosed during the lifetime of the individual or so long as the business continues to be carried on, except as provided below.
- (2) Subsection (1) does not apply to a disclosure made with the consent of the individual or the person for the time being carrying on the business.
- (3) Subsection (1) does not apply to a disclosure if—
- (a) it is made for the purpose of facilitating the performance of any functions of the Secretary of State, the Authority, the Council or the Competition Commission under the 1986 Act, the 1989 Act or this Act;
  - (b) it is required by a notice under section 38(1A) of the 1986 Act or section 28(2A) of the 1989 Act;
  - (c) it is made by a licence holder and is required to be made by a condition of his licence; or
  - (d) it is made by one licence holder to another and is required by that other licence holder for purposes connected with the carrying on of relevant activities.
- (4) Subsection (1) does not apply to any disclosure of information made—

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- (a) for the purpose of facilitating the performance by a person or body mentioned in subsection (5) of any function under an Act or instrument specified in subsection (6);
  - (b) for the purpose of facilitating the performance by the Comptroller and Auditor General, the Health and Safety Commission or the Health and Safety Executive of any of his or its functions;
  - [<sup>F1</sup>(c) for the purpose of facilitating the exercise by the Secretary of State, the Treasury or the Financial Services Authority of any power conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;]
  - (d) for the purpose of facilitating the performance of the functions of an inspector appointed under the enactments relating to companies;
  - (e) for the purpose of facilitating the performance by an official receiver of his functions under the enactments relating to insolvency or by a recognised professional body for the purposes of section 391 of the <sup>M1</sup>Insolvency Act 1986 of its functions as such a body;
  - (f) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
  - (g) for the purposes of any civil proceedings brought under or by virtue of the 1986 Act, the 1989 Act, this Act or any Act or instrument specified in subsection (6); or
  - (h) in pursuance of a Community obligation.
- (5) The persons and bodies specified for the purposes of subsection (4)(a) are—
- (a) a Minister of the Crown;
  - (b) the Competition Commission;
  - (c) the Director General of Fair Trading;
  - (d) the Director General of Telecommunications;
  - (e) the Director General of Water Services;
  - (f) the Director General of Electricity Supply for Northern Ireland;
  - (g) the Director General of Gas for Northern Ireland;
  - (h) the Rail Regulator;
  - (i) the Civil Aviation Authority;
  - (j) the Insolvency Practitioners Tribunal;
  - (k) the Coal Authority; and
  - (l) a local weights and measures authority in Great Britain.
- (6) The Acts and instruments specified for the purposes of subsection (4)(a) and (g) are—
- (a) the <sup>M2</sup>Trade Descriptions Act 1968;
  - (b) the <sup>M3</sup>Fair Trading Act 1973;
  - (c) the <sup>M4</sup>Consumer Credit Act 1974;
  - (d) the <sup>M5</sup>Estate Agents Act 1979;
  - (e) the <sup>M6</sup>Competition Act 1980;
  - (f) the <sup>M7</sup>National Audit Act 1983;
  - (g) the <sup>M8</sup>Telecommunications Act 1984;
  - (h) the <sup>M9</sup>Airports Act 1986;
  - (i) the <sup>M10</sup>Insolvency Act 1986;
  - (j) the <sup>M11</sup>Consumer Protection Act 1987;

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- (k) the <sup>M12</sup>Control of Misleading Advertisements Regulations 1988;
  - (l) the <sup>M13</sup>Water Act 1989, the <sup>M14</sup>Water Industry Act 1991 or any of the other consolidation Acts (within the meaning of section 206 of the Water Industry Act 1991);
  - (m) the <sup>M15</sup>Electricity (Northern Ireland) Order 1992;
  - (n) the <sup>M16</sup>Railways Act 1993;
  - (o) the <sup>M17</sup>Coal Industry Act 1994;
  - (p) the <sup>M18</sup>Gas (Northern Ireland) Order 1996;
  - (q) the <sup>M19</sup>Competition Act 1998.
  - [<sup>F2</sup>(r) Part I of the Transport Act 2000.]
- (7) The Secretary of State may by order modify subsection (3), (4), (5) or (6).
- (8) Nothing in subsection (1) is to be construed either as limiting the matters which may be—
- (a) published under section 33DA or 35 of the 1986 Act or section 42AA or 48 of the 1989 Act;
  - (b) made public by the Authority as part of a notice under section 26; or
  - (c) included in, or made public as part of, a report of the Authority, the Council or the Competition Commission under any provision of this Act, Part I of the 1986 Act or Part I of the 1989 Act;
- or as applying to information which has been so published or has been made public as part of such a notice or such a report.
- (9) A person who discloses any information in contravention of this section is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (10) In this section—
- “licence holder” means the holder of a gas licence or an electricity licence; and
  - “relevant activities”, in relation to a licence holder, means activities he is authorised by his licence to carry on (including, in the case of a gas transporter, the activities mentioned in section 7(1)(b) and (c) of the 1986 Act).
- (11) Information obtained by the Authority in the exercise of functions which are exercisable concurrently with the Director General of Fair Trading under Part I of the <sup>M20</sup>Competition Act 1998 is subject to sections 55 and 56 of that Act (disclosure) and not to subsections (1) to (10) of this section.
- (12) The power to make an order under subsection (7) is exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F1** S. 105(4)(c) substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 363 (which substitution is treated as if it had not been made (3.7.2002) by virtue of S.I. 2002/1555, art. 27)
- F2** S. 105(6)(r) inserted (21.12.2001) by S.I. 2001/4050, art. 2, Sch. Pt. IV para. 25

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#### **Modifications etc. (not altering text)**

- C1** S. 105(4): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. 1 para. 52**

#### **Commencement Information**

- I1** S. 105 wholly in force at 20.12.2000; s. 105 not in force at Royal Assent see s. 110(2); s. 105(1)-(7)(8) (a)(c)(9)-(12) in force at 7.11.2000 by S.I. 2000/2974, art. 2, **Sch.**(subject to transitional provisions in arts. 3-12); s. 105(8)(b) in force at 20.12.2000 by S.I. 2000/3343, art. 2, **Sch.**(subject to transitional provisions in arts. 3-15)

#### **Marginal Citations**

- M1** 1986 c. 45.  
**M2** 1968 c. 29.  
**M3** 1973 c. 41.  
**M4** 1974 c. 39.  
**M5** 1979 c. 38.  
**M6** 1980 c. 21.  
**M7** 1983 c. 44.  
**M8** 1984 c. 12.  
**M9** 1986 c. 31.  
**M10** 1986 c. 45.  
**M11** 1987 c. 43.  
**M12** S.I. 1988/915.  
**M13** 1989 c. 15.  
**M14** 1991 c. 56.  
**M15** S.I. 1992/231 (N.I.1).  
**M16** 1993 c. 43.  
**M17** 1994 c. 21.  
**M18** S.I. 1996/275 (N.I.2).  
**M19** 1998 c. 41.  
**M20** 1998 c. 41.

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