



Enterprise Act 2002

2002 CHAPTER 40

PART 9

INFORMATION

Permitted disclosure

243 Overseas disclosures

- (1) A public authority which holds information to which section 237 applies (the discloser) may disclose that information to an overseas public authority for the purpose mentioned in subsection (2).
- (2) The purpose is facilitating the exercise by the overseas public authority of any function which it has relating to—
 - (a) carrying out investigations in connection with the enforcement of any relevant legislation by means of civil proceedings;
 - (b) bringing civil proceedings for the enforcement of such legislation or the conduct of such proceedings;
 - (c) the investigation of crime;
 - (d) bringing criminal proceedings or the conduct of such proceedings;
 - (e) deciding whether to start or bring to an end such investigations or proceedings.
- (3) But subsection (1) does not apply to any of the following—
 - (a) information which is held by a person who is designated by virtue of section 213(4) as a designated enforcer for the purposes of Part 8;
 - (b) information which comes to a public authority in connection with an investigation under Part 4, 5 or 6 of the 1973 Act or under section 11 of the Competition Act 1980 (c. 21);
 - ^{F1}(c)
 - (d) information which comes to a public authority in connection with an investigation under Part ^{F2}... 4 or section 174 of this Act.

Status: Point in time view as at 01/07/2021. This version of this provision has been superseded.

Changes to legislation: Enterprise Act 2002, Section 243 is up to date with all changes known to be in force on or before 23 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) The Secretary of State may direct that a disclosure permitted by this section must not be made if he thinks that in connection with any matter in respect of which the disclosure could be made it is more appropriate—
- (a) if any investigation is to be carried out, that it is carried out by an authority in the United Kingdom or in another specified country or territory;
 - (b) if any proceedings are to be brought, that they are brought in a court in the United Kingdom or in another specified country or territory.
- (5) The Secretary of State must take such steps as he thinks are appropriate to bring a direction under subsection (4) to the attention of persons likely to be affected by it.
- (6) In deciding whether to disclose information under this section a public authority must have regard in particular to the following considerations—
- (a) whether the matter in respect of which the disclosure is sought is sufficiently serious to justify making the disclosure;
 - (b) whether the law of the country or territory to whose authority the disclosure would be made provides appropriate protection against self-incrimination in criminal proceedings;
 - (c) whether the law of that country or territory provides appropriate protection in relation to the storage and disclosure of personal data;
 - (d) whether there are arrangements in place for the provision of mutual assistance as between the United Kingdom and that country or territory in relation to the disclosure of information of the kind to which section 237 applies.
- (7) Protection is appropriate if it provides protection in relation to the matter in question which corresponds to that so provided in any part of the United Kingdom.
- (8) The Secretary of State may by order—
- (a) modify the list of considerations in subsection (6);
 - (b) add to those considerations;
 - (c) remove any of those considerations.
- (9) An order under subsection (8) must be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Information disclosed under this section—
- (a) may be disclosed subject to the condition that it must not be further disclosed without the agreement of the discloser, and
 - (b) must not otherwise be used by the overseas public authority to which it is disclosed for any purpose other than that for which it is first disclosed.
- (11) An overseas public authority is a person or body in any country or territory outside the United Kingdom which appears to the discloser to exercise functions of a public nature in relation to any of the matters mentioned in paragraphs (a) to (e) of subsection (2).
- (12) Relevant legislation is—
- (a) this Act, any enactment specified in Schedule 14 and such subordinate legislation as is specified by order for the purposes of section 238(1);
 - (b) any enactment or subordinate legislation specified in an order under section 211(2);
 - (c) any enactment or subordinate legislation specified in [^{F3}Schedule 13];

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- (d) legislation in any country or territory outside the United Kingdom which appears to the discloser to make provision corresponding to this Act or to any such enactment or subordinate legislation.

Textual Amendments

- F1** S. 243(3)(c) repealed (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 19](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)
- F2** Words in s. 243(3)(d) omitted (1.7.2021) by virtue of [National Security and Investment Act 2021 \(c. 25\)](#), [ss. 59, 66\(3\)](#) (with s. 62); [S.I. 2021/788](#), reg. 2(e) (with reg. 3)
- F3** Words in s. 243(12)(c) substituted (31.12.2020) by [The Consumer Protection \(Enforcement\) \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/203\)](#), regs. 1, [3\(19\)](#) (with reg. 9) (as amended by [S.I. 2020/1347](#), regs. 1(3), 3(8)); 2020 c. 1, [Sch. 5 para. 1\(1\)](#)

Modifications etc. (not altering text)

- C1** S. 243(1) excluded (20.6.2003) by [The Enterprise Act 2002 \(Protection of Legitimate Interests\) Order 2003 \(S.I. 2003/1592\)](#), art. 15, [Sch. 3 para. 3](#)
- C2** S. 243(6) applied (with modifications) (1.7.2005) by [Companies \(Audit, Investigations and Community Enterprise\) Act 2004 \(c. 27\)](#), [ss. 59\(6\), 65](#); [S.I. 2004/3322](#), [art. 2\(3\)](#), [Sch. 3](#)

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