



Digital Markets, Competition and Consumers Act 2024

2024 CHAPTER 13

PART 5

MISCELLANEOUS

CHAPTER 3

MISCELLANEOUS

326 Disclosing information overseas

- (1) Part 9 of EA 2002 (information) is amended as follows.
- (2) For section 243 (overseas disclosures) substitute—

“243A Overseas disclosures for both overseas and domestic purposes

- (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 of facilitating both—
 - (a) the exercise by the discloser of any function it has under or by virtue of this Act or any other enactment, and
 - (b) the exercise by the overseas public authority of any function which it has relating to—
 - (i) carrying out investigations in connection with the enforcement of any relevant law by means of civil proceedings;
 - (ii) bringing civil proceedings for the enforcement of such law or the conduct of such proceedings;
 - (iii) the investigation of crime;

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Chapter 3. (See end of Document for details)

- (iv) bringing criminal proceedings or the conduct of such proceedings;
 - (v) deciding whether to start or bring to an end such investigations or proceedings.
- (2) **Subsection (1)** does not apply to any of the following—
- (a) information which is held by a person who is a private designated enforcer for the purposes of **Chapter 3** of **Part 3** of the Digital Markets, Competition and Consumers Act 2024 (see **section 151** of that Act);
 - (b) information which comes to a public authority in connection with an investigation under Part 4 or section 174 of this Act;
 - (c) information which comes to a public authority in connection with an investigation under section 11 of the Competition Act 1980;
 - (d) legacy information within the meaning of **subsection (5)**.
- (3) In **subsection (1)(a)**, the reference to an enactment includes a reference to an enactment contained in—
- (a) an Act of the Scottish Parliament;
 - (b) Northern Ireland legislation;
 - (c) subordinate legislation.
- (4) In **subsection (1)(b)(i)**, “relevant law” means—
- (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, obligation or rule of law specified in **Schedule 15** to the Digital Markets, Competition and Consumers Act 2024 (consumer protection enactments);
 - (c) any legislation, or any obligation or rule of law in a country or territory outside the United Kingdom which appears to the discloser to make provision corresponding or similar to anything within paragraphs (a) and (b).
- (5) In **subsection (2)(d)**, “legacy information” means information which—
- (a) comes to a public authority in connection with the exercise of its functions under or by virtue of paragraphs 15 to 18 of Schedule 24 relating to investigations under Parts 4 or 6 of the 1973 Act;
 - (b) came to a public authority—
 - (i) before the coming into force of this section, and
 - (ii) in connection with the exercise of its functions under or by virtue of paragraphs 15 to 18 of Schedule 24 relating to investigations under Part 5 of the 1973 Act;
 - (c) came to a public authority—
 - (i) before 1 July 2021, and
 - (ii) in connection with an investigation under Part 3 of the Enterprise Act 2002.

243B Overseas disclosures for overseas purposes only

- (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 **section 243A(1)(b)**.

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- (2) [Subsection \(2\)](#) of [section 243A](#) applies for the purposes of [subsection \(1\)](#) of [this section](#) as it applies for the purposes of [subsection \(1\)](#) of [that section](#).

243C Overseas disclosures for designated cooperation arrangement purposes

- (1) A public authority which holds information to which section 237 applies (“the discloser”) may disclose that information to an overseas public authority for a purpose permitted under or by virtue of a designated cooperation arrangement.
- (2) “Designated cooperation arrangement” means an arrangement or agreement that meets all of Conditions A to D.
- (3) Condition A is that the arrangement or agreement is between—
- a public authority and an overseas public authority, or
 - the United Kingdom and a country or territory.
- (4) Condition B is that the arrangement or agreement relates to cooperation between—
- the public authority and the overseas public authority, or
 - public authorities in the United Kingdom and persons or bodies in that country or territory,
- for the purposes of facilitating the exercise of functions related to anything mentioned in sub-paragraphs (i) to (v) of [section 243A\(1\)\(b\)](#).
- (5) Condition C is that the arrangement or agreement provides for—
- the overseas public authority and the public authority, or
 - a person or body in that country or territory and public authorities in the United Kingdom,
- to provide corresponding or substantially similar assistance to each other for the purposes of facilitating the exercise of functions related to anything mentioned in sub-paragraphs (i) to (v) of [section 243A\(1\)\(b\)](#).
- (6) Condition D is that the arrangement or agreement is designated in regulations made by the Secretary of State.
- (7) Before designating an arrangement or agreement in regulations under [subsection \(6\)](#), the Secretary of State must have regard in particular to whether the arrangement or agreement contains provision restricting or preventing—
- the use for another purpose of information disclosed for a purpose permitted under or by virtue of the arrangement or agreement;
 - the further disclosure of such information.
- (8) The Secretary of State may not designate an arrangement or agreement in regulations under [subsection \(6\)](#) unless the Secretary of State is satisfied that—
- the law and practice of the country or territory, or the country or territory of the overseas public authority, with whom the arrangement or agreement is with provides appropriate protection against self-incrimination in criminal proceedings, and

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- (b) the law and practice of that country or territory provides appropriate protection in relation to the storage and disclosure of confidential information.
- (9) For the purposes of [subsection \(8\)](#), protection is appropriate if it provides protection in relation to the matter in question which corresponds or is substantially similar to that so provided in any part of the United Kingdom.
- (10) Regulations under [subsection \(6\)](#) are to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

243D Use and further disclosure of information disclosed under sections [243A](#) and [243B](#)

- (1) Subsections [\(2\)](#) and [\(3\)](#) apply to information disclosed by virtue of [section 243A](#) to the extent that the disclosure was to facilitate the exercise by the discloser of any function it has under or by virtue of this Act or any other enactment (“the original function”) in relation to a particular matter (“the original matter”).
- (2) The information must not be used by the overseas public authority other than for facilitating the exercise by the discloser of the original function in relation to the original matter unless—
 - (a) the use is for the purpose of facilitating the exercise by the discloser of any function it has under this Act or any other enactment (other than the original function) whether or not in relation to the original matter, and
 - (b) the discloser consents to the use of that information for that purpose.
- (3) The information must not be further disclosed by the overseas public authority unless—
 - (a) the further disclosure is for the purpose of facilitating the exercise by the discloser of any function it has under this Act or any other enactment (whether or not the original function) whether or not in relation to the original matter, and
 - (b) the discloser consents to the further disclosure of the information for that purpose.
- (4) Subsections [\(5\)](#) and [\(6\)](#) apply to information disclosed by virtue of [section 243A](#) or [243B](#) to the extent that the disclosure was to facilitate the exercise of functions of an overseas public authority relating to anything mentioned in sub-paragraphs [\(i\)](#) to [\(v\)](#) of [section 243A\(1\)\(b\)](#) (“the original function”) in relation to a particular matter (“the original matter”).
- (5) The information must not be used by the overseas public authority other than for facilitating the exercise by the authority of the original function in relation to the original matter unless—
 - (a) the use is for the purpose of facilitating the exercise of a function which the authority has relating to anything mentioned in sub-paragraphs [\(i\)](#) to [\(v\)](#) of [section 243A\(1\)\(b\)](#) (other than the original function) whether or not in relation to the original matter, and
 - (b) the discloser consents to the use of that information for that purpose.

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- (6) The information must not be further disclosed by the overseas public authority unless—
- (a) the further disclosure is for the purpose of facilitating the exercise of any of its functions relating to anything mentioned in subparagraphs (i) to (v) of subsection (1)(b) of section 243A (whether or not the original function) whether or not in relation to the original matter, and
 - (b) the discloser consents to the further disclosure of the information for that purpose.
- (7) In deciding whether to consent to the use or further disclosure of information for the purposes of subsection (2)(b), (3)(b), (5)(b) or (6)(b), the discloser must have regard to the considerations in section 243F to which it would be required to have regard if it were deciding to disclose the information under 243A or 243B.
- (8) Nothing in this section prevents information being used, or further disclosed, by the overseas public authority if that use, or further disclosure, is required under the law of the country or territory of the authority.

243E Directions by the Secretary of State relating to overseas disclosures under sections 243A and 243B

- (1) The Secretary of State may direct that a disclosure permitted under section 243A or 243B must not be made if the Secretary of State 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 (rather than by the overseas public authority);
 - (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 (rather than in the country or territory of the overseas authority).
- (2) In subsection (1), “specified” means specified in the direction.
- (3) The Secretary of State must take such steps as the Secretary of State thinks are appropriate to bring a direction under subsection (1) to the attention of persons likely to be affected by it.

243F Relevant considerations relating to overseas disclosures under sections 243A and 243B

- (1) This section applies when a public authority is deciding whether to make a disclosure under section 243A or 243B.
- (2) In deciding whether to make a disclosure under section 243A, the public authority must have regard in particular to the following considerations—
- (a) whether the law and practice of the country or territory to whose authority the disclosure would be made provides appropriate protection against self-incrimination in criminal proceedings;

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- (b) whether the law and practice of that country or territory provides appropriate protection in relation to the storage and disclosure of confidential information.
- (3) In deciding whether to make a disclosure under [section 243B](#), the public authority must have regard in particular to the considerations in [subsection \(2\)](#) and the following additional considerations—
- (a) whether the matter in respect of which the disclosure is sought is sufficiently serious to justify making the disclosure;
 - (b) whether the disclosure would further the aims or purposes of any convention or treaty relating in whole or in part to cooperation in matters relating to competition or consumer protection to which the United Kingdom and the country or territory of the authority to whom the disclosure would be made are parties;
 - (c) whether there are arrangements in place for the provision of mutual assistance as between the United Kingdom and that country or territory to whose authority the disclosure would be made in relation to the disclosure of information of the kind to which [section 237](#) applies;
 - (d) whether a person or body in that country or territory would assist the public authority in a way that corresponds or is substantially similar to the assistance that it is proposed the public authority give to the overseas public authority by making the disclosure.
- (4) For the purposes of this section, protection is appropriate if it provides protection in relation to the matter in question which corresponds or is substantially similar to that so provided in any part of the United Kingdom.
- (5) The Secretary of State may by regulations amend [subsections \(2\)](#) and [\(3\)](#) so as to—
- (a) alter any consideration for the time being included in those subsections;
 - (b) add further considerations;
 - (c) remove any considerations.
- (6) Regulations under [subsection \(5\)](#) are to be made by statutory instrument and are subject to annulment in pursuance of a resolution of either House of Parliament.”
- (3) In [section 244](#) (specified information: considerations relevant to disclosure)—
- (a) in [subsection \(2\)](#), for “information whose disclosure the authority thinks is contrary to the public interest” substitute “sensitive information”;
 - (b) in [subsection \(3\)](#), for the words after “(so far as practicable)” to the end of [paragraph \(b\)](#) substitute “any commercial information or private information”.
- (4) In [section 245](#) (offences) in [subsection \(2\)](#), for “[243\(4\)](#)” substitute “[243E](#)”.
- (5) For [section 246](#) substitute—

“**246A Interpretation**

In this Part—

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“commercial information” means information relating to any business of an undertaking whose disclosure the public authority concerned or, for the purposes of [section 243C](#) the Secretary of State, thinks might significantly harm the undertaking’s legitimate business interests;

“confidential information” means commercial information, private information or sensitive information;

“overseas public authority” means a person or body in any country or territory outside the United Kingdom which appears to the discloser (within the meaning of any of sections [243A](#) to [243C](#)) to exercise functions of a public nature in relation to anything mentioned in subparagraphs (i) to (v) of [section 243A\(1\)\(b\)](#);

“private information” mean information relating to the private affairs of an individual whose disclosure the public authority concerned, or for the purposes of [section 243C](#) the Secretary of State, thinks might significantly harm the individual’s interests;

“sensitive information” means information whose disclosure the public authority concerned or, for the purposes of [section 243C](#) the Secretary of State, thinks would be contrary to the public interest;

“subordinate legislation” has the same meaning as in section 21(1) of the Interpretation Act 1978 and includes an instrument made under—

- (a) an Act of the Scottish Parliament;
- (b) Northern Ireland legislation.”

(6) In section 59 of the Companies (Audit, Investigations and Community Enterprises) Act 2004 (information), in subsection (6)—

- (a) for “section 243(6)” substitute “[section 243F\(2\)](#) and (3)”;
- (b) for “(overseas disclosures)” substitute “(relevant considerations relating to overseas disclosures)”.

Commencement Information

II S. 326 in force at Royal Assent for specified purposes, see [s. 339\(2\)\(c\)](#)

PROSPECTIVE

327 Duty of expedition on the CMA and sectoral regulators

(1) In section 25 of ERRA 2013 (the Competition and Markets Authority), after subsection (4) insert—

“(5) In making any decision, or otherwise taking action, for the purposes of any of its functions within [Schedule 4A](#) the CMA must have regard to the need for making a decision, or taking action, as soon as reasonably practicable.”

(2) After Schedule 4 to ERRA 2013 insert—

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“SCHEDULE 4A

Section 25

FUNCTIONS TO WHICH THE CMA’S DUTY OF EXPEDITION APPLIES

PART 1

INTRODUCTION

- 1 The following functions are functions within this Schedule for the purposes of section 25(5).

PART 2

COMPETITION FUNCTIONS

Functions under the Enterprise Act 2002

- 2 Functions under Part 3 of the 2002 Act (mergers) other than functions under—
- (a) section 94B (statement of policy about functions under sections 94 and 94AA);
 - (b) section 106 (advice and information about references under section 22 or 33);
 - (c) section 116 (statement of policy about penalties).
- 3 Functions under Part 4 of the 2002 Act (market studies and market investigations) other than functions under—
- (a) section 166 (register of undertakings and orders);
 - (b) [section 167C](#) (statement of policy about functions under sections 167 and 167A);
 - (c) section 171 (advice and information about market investigation references);
 - (d) section 174E (statement of policy about penalties).
- 4 Functions under Part 6 of the 2002 Act (the cartel offence) other than functions under section 190A (cartel offence: prosecution guidance).

Functions under Part 1 of the Competition Act 1998

- 5 Functions under Part 1 of the 1998 Act (competition) other than functions under—
- (a) section 31D (guidance about the acceptance of commitments under section 31A);
 - (b) [section 35C](#) (statement of policy about penalties under sections 31E, 34 and 35A);
 - (c) section 38 (the appropriate level of a penalty);
 - (d) section 40B (statement of policy about penalties under section 40A);
 - (e) section 51 (CMA rules);

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- (f) section 52 (advice and information about the Chapter 1 and 2 prohibitions);
- (g) section 54 (functions of sectoral regulators).

Functions under Chapter 3 of Part 2 of the Water Industry Act 1991

- 6 Functions under sections 32 to 35 of the Water Industry Act 1991 (protection of consumers: competition provisions).

PART 3

CONSUMER FUNCTIONS

Functions under Part 3 of the Digital Markets, Competition and Consumers Act 2024

- 7 Functions under Part 3 of the Digital Markets, Competition and Consumers Act 2024 (enforcement powers for infringements of consumer protection law) other than functions under—
 - (a) [section 199](#) (statement of policy about penalties);
 - (b) [sections 210](#) and [211](#) (rules about direct enforcement functions);
 - (c) [section 212](#) (guidance about direct enforcement functions).
- 8 Functions under Chapter 1 of Part 4 of the Digital Markets, Competition and Consumers Act 2024 (protection from unfair trading).

Functions under the Consumer Rights Act 2015

- 9 (1) Functions under Schedule 3 to the Consumer Rights Act 2015 (enforcement of law on unfair contract terms and notices) other than functions under paragraph 7(2) to (5) of that Schedule (provision of information and advice).
- (2) Functions under Schedule 5 to the Consumer Rights Act 2015 (investigatory powers) other than functions under paragraph 16F of that Schedule (statement of policy about penalties).

Functions under the Business Protection from Misleading Marketing Regulations 2008

- 10 Functions under the Business Protection from Misleading Marketing Regulations 2008 ([S.I. 1276/2008](#)) other than functions under regulation 20(2) of those Regulations (provision of information and advice).

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Changes to legislation: There are currently no known outstanding effects for the Digital Markets, Competition and Consumers Act 2024, Chapter 3. (See end of Document for details)

PART 4

DIGITAL MARKET FUNCTIONS

Functions under Part 1 of the Digital Markets, Competition and Consumers Act 2024

- 11 Functions under Part 1 of the Digital Markets, Competition and Consumers Act 2024 (digital markets) other than functions under—
- (a) [section 60](#) (content of report under [section 57](#) etc);
 - (b) [section 67](#) (regulations about duty to notify);
 - (c) [section 91](#) (statement of policy on penalties);
 - (d) [section 114](#) (guidance about functions under Part 1).”
- (3) In consequence of the amendments made by subsections (1) and (2)—
- (a) in section 103 of EA 2002 (duty of expedition in relation to references)—
 - (i) in the heading, at the end insert “under section 45 or 62”;
 - (ii) omit subsection (1);
 - (b) in the Water Mergers (Modification of Enactments) Regulations 2004 ([S.I. 2004/3202](#)) omit Article 25A (modification of section 103 of EA 2002).
- (4) [Schedule 29](#) makes provision imposing a duty of expedition on sectoral regulators in respect of their competition functions that are exercisable concurrently with the CMA.

Commencement Information

- I2** S. 327 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

328 Offenders assisting investigations and prosecutions: powers of the CMA

- (1) In Chapter 2 of Part 2 of the Serious Organised Crime and Police Act 2005 (offenders assisting investigations and prosecutions), section 71 (assistance by offender: immunity from prosecution) is amended as follows.
- (2) In subsection (4), after paragraph (dab) insert—

“(dac) the Competition and Markets Authority;”.
- (3) In subsection (6A), in the words before paragraph (a), after “the Bank of England,” insert “the Competition and Markets Authority”.
- (4) After subsection (7) insert—

“(8) The Competition and Markets Authority, or a person designated by the Competition and Markets Authority under subsection (4)(e), may not give an immunity notice (but has the other powers available to specified prosecutors).”

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Commencement Information

I3 S. 328 not in force at Royal Assent, see [s. 339\(1\)](#)

PROSPECTIVE

329 Removal of limit on the tenure of a chair of the Competition Appeal Tribunal

In Schedule 2 to EA 2002 (the Competition Appeal Tribunal), in paragraph 2 (tenure etc) omit sub-paragraph (2).

Commencement Information

I4 S. 329 not in force at Royal Assent, see [s. 339\(1\)](#)

Status:

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Changes to legislation:

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