



# Justice and Security Act 2013

## 2013 CHAPTER 18

### PART 2

#### DISCLOSURE OF SENSITIVE MATERIAL

*“Norwich Pharmacal” and similar jurisdictions*

#### 17 Disclosure proceedings

- (1) This section applies where, by way of civil proceedings, a person (“A”) seeks the disclosure of information by another person (“B”) on the grounds that—
  - (a) wrongdoing by another person (“C”) has, or may have, occurred,
  - (b) B was involved with the carrying out of the wrongdoing (whether innocently or not), and
  - (c) the disclosure is reasonably necessary to enable redress to be obtained or a defence to be relied on in connection with the wrongdoing.
- (2) A court may not, in exercise of its residual disclosure jurisdiction, order the disclosure of information sought (whether that disclosure would be to A or to another person) if the information is sensitive information.
- (3) “Sensitive information” means information—
  - (a) held by an intelligence service,
  - (b) obtained from, or held on behalf of, an intelligence service,
  - (c) derived in whole or part from information obtained from, or held on behalf of, an intelligence service,
  - (d) relating to an intelligence service, or
  - (e) specified or described in a certificate issued by the Secretary of State, in relation to the proceedings, as information which B should not be ordered to disclose.

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*Changes to legislation: There are currently no known outstanding effects for the Justice and Security Act 2013, Section 17. (See end of Document for details)*

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- (4) The Secretary of State may issue a certificate under subsection (3)(e) only if the Secretary of State considers that it would be contrary to the public interest for B to disclose—
- (a) the information,
  - (b) whether the information exists, or
  - (c) whether B has the information.
- (5) For the purposes of subsection (4) a disclosure is contrary to the public interest if it would cause damage—
- (a) to the interests of national security, or
  - (b) to the interests of the international relations of the United Kingdom.
- (6) In this section—
- “enactment” means an enactment whenever passed or made and includes an enactment contained in—
- (a) an Act of the Scottish Parliament,
  - (b) Northern Ireland legislation, or
  - (c) a Measure or Act of the National Assembly for Wales,
- “Her Majesty's forces” has the same meaning as in the Armed Forces Act 2006,
- “information” includes—
- (a) information contained in any form of document or stored in any other way, and
  - (b) alleged information,
- “intelligence service” means—
- (a) the Security Service,
  - (b) the Secret Intelligence Service,
  - (c) the Government Communications Headquarters, or
  - (d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities,
- “obtained” means obtained directly or indirectly,
- “residual disclosure jurisdiction” means any jurisdiction to order the disclosure of information which is not specifically conferred as such a jurisdiction by or under an enactment.
- (7) This section—
- (a) enables the Secretary of State to issue a certificate under subsection (3)(e) where the Secretary of State is B as it enables the Secretary of State to issue such a certificate where another person is B, and
  - (b) does not restrict any other right or privilege that the Secretary of State can claim in order to resist an application for the disclosure of information.

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**Commencement Information**

**II** S. 17 in force at 25.6.2013 by [S.I. 2013/1482](#), [art. 2](#) (with [arts. 3, 4](#))

**Changes to legislation:**

There are currently no known outstanding effects for the Justice and Security Act 2013, Section 17.