



Industry Act 1975

1975 CHAPTER 68

PART IV

DISCLOSURE OF INFORMATION

Disclosure by Government

27 Disclosure of information by Government

Ministers of the Crown and the Treasury shall publish, make available and provide access to information and analysis as specified in Schedule 5 to this Act.

Disclosure by Companies

28 Persons to whom duty to disclose information applies

(1) For the purpose of obtaining information which in the opinion of either of the Ministers is needed to form or to further national economic policies, or needed for consultations between Government, employers or workers on the outlook for a particular sector of manufacturing industry, including the outlook for the major companies in that sector, that Minister, if it appears to him that one of the following conditions is satisfied, namely—

- (a) that a company is carrying on in the United Kingdom an undertaking wholly or mainly engaged in manufacturing industry;
- (b) that a group of companies is carrying on in the United Kingdom an undertaking wholly or mainly engaged in manufacturing industry,

and if it also appears to him—

- (i) that the undertaking makes a significant contribution to a sector of such industry important to the economy of the United Kingdom or to that of any substantial part of the United Kingdom, and
- (ii) that it is desirable, for the purpose of obtaining information of that description, that the company or companies concerned should provide the Government

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and a representative of each relevant trade union with any such information relating to the undertaking,

may serve a preliminary notice on the company or companies concerned.

(2) In this Part of this Act—

" company or companies concerned " means—

- (a) where it appears to the Minister that the condition mentioned in subsection (1)(a) above is satisfied, the company carrying on the undertaking, and
- (b) where it appears to the Minister that the condition specified in subsection (1)(b) above is satisfied—
 - (i) the group's holding company, if that company is registered in the United Kingdom, and
 - (ii) all the companies in the group, if the holding company is not registered in the United Kingdom;

" preliminary notice " means a notice—

- (a) stating which of the conditions specified in paragraphs (a) and (b) of subsection (1) above appears to the Minister to be satisfied in relation to the Undertaking;
- (b) informing the company or companies concerned that if the Minister is not satisfied that such information relating to the undertaking as is specified in paragraph (ii) of that subsection will be given voluntarily both to him and to a representative of each relevant trade union he will consider making an order under this section ; and
- (c) requiring them—
 - (i) to give a representative of each relevant trade union a notice of the service of the preliminary notice within 14 days of the date on which it is served ; and
 - (ii) to give the Minister, within such reasonable time as may be specified in the preliminary notice, a list of representatives of relevant trade unions to whom they have given the notice mentioned in paragraph (i) above ;

" relevant trade union " means an independent trade union, as defined in section 30(1) of the Trade Union and Labour Relations Act 1974, which the company or companies concerned recognise for the purpose of negotiations about one or more of the matters specified in section 29(1) of that Act in relation to persons employed in the relevant undertaking, or as to which the Advisory Conciliation and Arbitration Service has made a recommendation for such recognition under the Employment Protection Act 1975 which is operative within the meaning of section 15 of that Act; and

" relevant undertaking" means an undertaking in relation to which a preliminary notice states that a condition mentioned in paragraph (a) or (b) of subsection (1) above appears to the Minister to be satisfied.

(3) When a Minister serves a preliminary notice, he shall lay before each House of Parliament a statement that he has served it, specifying the company or companies concerned, the relevant undertaking and the date on which the notice was served.

(4) Subject to subsections (5) to (7) below, when a Minister has served a preliminary notice, he may by order declare that this Part of this Act applies to the company or companies concerned in respect of the relevant undertaking.

- (5) A Minister shall not make an order under this section before the end of a period of 3 months from the service of the preliminary notice.
- (6) A Minister shall not make such an order unless it appears to him that the company or companies concerned will not voluntarily furnish the information to him and to a representative of each relevant trade union.
- (7) Before making an order a Minister shall give the company or companies concerned and the authorised representative of each relevant trade union an opportunity to make representations to him concerning it.
- (8) An order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) The question what is a sector of an industry shall be determined by the Minister serving the preliminary notice.

29 Meaning of " representative " and " authorised representative "

- (1) In this Part of this Act—
 - " authorised representative " means a representative of a relevant trade union to whom the company or companies concerned give—
 - (a) a notice of service of a preliminary notice, or
 - (b) a notice under subsection (2) below; and
 - " representative " means an official or other person who is authorised by a relevant trade union to carry on negotiations about one or more of the matters specified in section 29(1) of the Trade Union and Labour Relations Act 1974.
- (2) If an authorised representative—
 - (a) ceases to be a representative of the relevant trade union of which he is the authorised representative, or
 - (b) gives the company or companies concerned notice that he desires to be discharged from acting as authorised representative of that union, or
 - (c) ceases for any other reason to be available to act as that union's authorised representative,it shall be the duty of the company or companies concerned—
 - (i) to give another representative of the relevant trade union notice that he is to be the authorised representative of that union, and
 - (ii) to give the Minister a notice requesting him to insert the name of the new representative in the list of authorised representatives in place of that of the old representative.

30 Duty to give information to Minister

- (1) A Minister who has made an order under section 28 above may by notice require the company or companies concerned to furnish him, in such manner and within such reasonable time as may be specified in the notice, and in such form as may be so specified, with such information as may be so specified relating to the business in the United Kingdom of the relevant undertaking, but not as to any matter except those specified in subsection (2) below.
- (2) The matters mentioned in subsection (1) above are—

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- (a) the persons employed in the undertaking, or persons normally so employed (but not specifically as to individuals);
 - (b) the undertaking's capital expenditure ;
 - (c) fixed capital assets used in the undertaking ;
 - (d) any disposal or intended disposal of such assets ;
 - (e) any acquisition or intended acquisition of fixed capital assets for use in the undertaking ;
 - (f) the productive capacity and capacity utilisation of the undertaking;
 - (g) the undertaking's output and productivity ;
 - (h) sales of the undertaking's products ;
 - (i) exports of those products by the undertaking ;
 - (j) sales of industrial or intellectual property owned or used in connection with the undertaking, grants of rights in respect of such property, and contracts for any such sales or grants ; and
 - (k) expenditure on any research or development programme.
- (3) A notice may require information as to any of those matters—
- (a) in relation to a specified date not earlier than the commencement of the most recently completed financial year of the person specified in the notice ;
 - (b) in relation to a period commencing not earlier than the commencement of that year ;
 - (c) in relation to a future specified date or a future specified period;
- but a requirement which is made, wholly or partly, in relation to a future specified date or a future specified period, is to be construed, to the extent that it relates to that date or that period, as a requirement only to give a forecast.
- (4) The Minister shall send a copy of a notice under this section to the authorised representative of each relevant trade union.
- (5) Nothing in this section shall be construed as enabling a Minister to require information about the details of know-how or of any research or development programme.
- (6) In this section—
- " industrial or intellectual property " includes, without prejudice to its generality, patents, designs, trade marks, know-how and copyrights, and
 - " know-how " has the meaning assigned to it by section 386(7) of the Income and Corporation Taxes Act 1970.

31 Information for trade unions

- (1) Subject to subsections (2) to (8) below, after a Minister has received the information specified in a notice under section 30 above the Minister may serve—
- (a) a further notice on the company or companies concerned provisionally requiring them to furnish to the authorised representative of each relevant trade union the whole or part of the information furnished to him under section 30 above, and
 - (b) a notice as to the furnishing of that information on each such representative, and any notice served under this subsection shall specify a reasonable period, which shall not be less than 28 days, as the period within which references may be required under section 32(1) below.

- (2) A Minister shall not require information to be furnished if he considers that reasons of national policy or special reasons apply.
- (3) For the purposes of this Act reasons of national policy apply if the Minister considers—
 - (a) that to furnish the information would be undesirable in the national interest; or
 - (b) that the company or companies concerned could not furnish it without contravening a prohibition imposed by or under an enactment.
- (4) For the purposes of this Act special reasons apply if the Minister considers—
 - (a) that the information was communicated to the company or companies concerned in confidence, or was information which they otherwise obtained in consequence of the confidence reposed in them by another person; or
 - (b) that the disclosure of the information would cause substantial injury to the undertaking ; or
 - (c) that its disclosure would cause substantial injury to a substantial number of employees of the undertaking.
- (5) A Minister shall not serve a notice under subsection (1) above without giving—
 - (a) to the company or companies concerned, and
 - (b) to the authorised representative Of each relevant trade union,an opportunity of making representations to him.
- (6) The notice to be given to the company or companies concerned under subsection (1) above is a notice stating what information (if any) the Minister proposes to require them to furnish.
- (7) The notice to be given to the authorised representatives under subsection (1) above is a notice stating whether or not the Minister proposes to require the company or companies concerned to furnish all the information furnished to him by them.
- (8) If a notice given to authorised representatives under subsection (1) above states that the Minister does not propose to require the company or companies concerned to furnish all the information, it shall give such indication of the nature (without disclosing the substance) of any information which the Minister proposes should not be furnished for special reasons as will enable the representatives to consider whether or not they ought to exercise their right to require a reference under section 32 below.

32 Release from duty to disclose information to trade union

- (1) A Minister who has served a notice under section 31 above may by notice served within the period specified in that notice be required to make a reference to an advisory committee.
- (2) Such a reference may be required—
 - (a) by the company or companies concerned, where the Minister proposes to require them to furnish information under section 31 above and they claim that the Minister's final decision ought to be that it should not be furnished because special reasons apply, or
 - (b) by the authorised representative of any relevant trade union, where the Minister proposes that some or all of the information furnished to him shall not be furnished to authorised representatives because special reasons apply.

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- (3) A Minister may himself refer to an advisory committee any proposal that some or all of the information furnished to him shall not be furnished to authorised representatives of relevant trade unions because special reasons apply.
- (4) Schedule 6 to this Act shall have effect.
- (5) The committee shall give the company or companies concerned and each relevant trade union's authorised representative an opportunity of making representations in relation to the matters to which the reference relates.
- (6) The advisory committee shall make a report to the Minister after the close of their consideration of the reference, giving their findings of fact and their recommendations, and after considering any representations made under subsection (5) above.
- (7) Where a matter has been referred to the committee, the Minister may make a final decision relating to his proposal only after receiving and considering the committee's report on it.
- (8) Subject to subsection (13) below, where there has been a reference, the Minister shall notify—
 - (a) the company or companies concerned ;
 - (b) the authorised representative of each relevant trade union; and
 - (c) the advisory committee,of his final decision ; and a notice under this subsection shall be treated as requiring the information specified in it to be furnished to each such representative within such reasonable time as may be so specified.
- (9) The Minister's notice under subsection (8) above to the company or companies concerned and to the authorised representatives shall state whether or not he accepted the committee's advice.
- (10) Where there has been no reference to the advisory committee or a reference has been withdrawn, the Minister may notify the company or companies concerned and each relevant trade union's authorised representative that his provisional notice under section 31 above is to be treated as containing his final decision.
- (11) A notice under subsection (10) above shall state that the provisional notice is to be treated as requiring the information specified in it to be furnished to the authorised representative of each trade union within such reasonable time as may be specified in the notice under subsection (10) above.
- (12) No such notice shall be given before the end of the period specified in the provisional notice.
- (13) If—
 - (a) the Minister's final decision in relation to any information is that it shall be furnished to the representative of each relevant trade union, and
 - (b) in making that decision he rejected the committee's advice,he shall make an order specifying the nature (without disclosing the substance) of the information to be furnished contrary to that advice, and accordingly requiring the company or companies concerned to furnish it to the representative of each relevant trade union within such reasonable time as may be specified in the order.
- (14) An order under subsection (13) above shall be laid before Parliament after being made.

- (15) An order under subsection (13) above shall not take effect if before the end of a period of 28 days from the date on which it is laid before Parliament either House resolves that an Address be presented to Her Majesty praying that it be annulled.
- (16) If no such resolution is passed by either House, the order shall come into effect at the end of the said period.
- (17) If such a resolution is passed by either House, Her Majesty may by Order in Council revoke the Order.
- (18) In reckoning the period of 28 days no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than 4 days.
- (19) This section shall apply with appropriate modifications in any case where only part of the information furnished to the Minister falls to be disclosed to representatives of relevant trade unions.

33 Confidentiality

- (1) Information to which this section applies shall not be disclosed without the consent of the person furnishing it except—
 - (a) to a government department for the purposes of the exercise by that department of any of their functions;
 - (b) for the purposes of a reference under section 32 above, to the advisory committee or to a person whose aid is called in under paragraph 5 of Schedule 6 to this Act;
 - (c) to the Manpower Services Commission, the Employment Services Agency or the Training Services Agency established under the Employment and Training Act 1973 ; or
 - (d) for use—
 - (i) in investigating the possible commission of an offence,
 - (ii) in connection with any criminal proceedings consequent on such an investigation, or
 - (iii) in a report of any such proceedings.
- (2) Subject to subsection (3) below, this section applies to information which has been furnished to a Minister under section 30 above but has not been furnished to authorised representatives under section 32 above.
- (3) This section does not apply to any information at a time after a person has been convicted of an offence under section 34(1) CM below in relation to it.
- (4) The reference to a government department in paragraph (a) of subsection (1) above includes a reference to a Northern Ireland department.

34 Offences

- (1) A person who—
 - (a) refuses or fails without reasonable cause to comply with a requirement of a preliminary notice under section 28 above;
 - (b) refuses or fails without reasonable cause to furnish information required under this Part of this Act; or

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- (c) in furnishing such information makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular,
shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.
- (2) Where a person is convicted of an offence under subsection (1)(b) above, then, if the default in respect of which he was convicted is continued without reasonable cause after the conviction, he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding £40 for each day on which the default is continued.
- (3) A person who contravenes section 33 above shall be guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding £200 or to imprisonment for a term not exceeding three months, or to both, and
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.
- (4) Summary proceedings for an offence under subsection (1)(c) above may be brought within a period of six months from the date on which evidence sufficient in the opinion of the prosecutor to warrant the proceedings came to his knowledge; but no proceedings shall be brought by virtue of this subsection more than three years after the commission of the offence.
- (5) For the purposes of subsection (4) above a certificate signed by or on behalf of the prosecutor and stating the date on which evidence as aforesaid came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be deemed to be so signed unless the contrary is proved.
- (6) Where an offence under this Part of this Act committed by a body corporate or a Scottish firm is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or firm or a person who was purporting to act in any such capacity, he as well as the body corporate or, as the case may be, the firm shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (7) Where the affairs of a body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.
- (8) Proceedings for an offence under this Part of this Act, other than an offence under subsection (3) above, shall not be instituted—
- (a) in England and Wales, except by or with the consent of the Attorney General;
 - (b) in Northern Ireland except by or with the consent of the Attorney General for Northern Ireland.
- (9) Summary proceedings for an offence under this Part of this Act may (without prejudice to any jurisdiction exercisable apart from this subsection) be taken against a body corporate at any place where it has a place of business and against any other person at any place where he is.