

*These notes refer to the Enterprise Act 2002 (c.40)
which received Royal Assent on 7 November 2002*

ENTERPRISE ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 9: Information

Introduction

585. This Part creates a new gateway and sets out general restrictions and conditions for the disclosure of specified information held by public authorities. It reflects the Government strategy of widening and harmonising the gateways through which information can be disclosed in the UK and overseas and at the same time introduces appropriate safeguards in respect of permitted disclosure of information.
586. The Anti-Terrorism, Crime and Security Act 2001 introduced a new gateway (and amended numerous existing gateways) to allow the disclosure of certain information within the UK and to overseas authorities for the purpose of pursuing criminal investigations or proceedings. The provisions in this Part create a corresponding gateway for disclosure of information relating to consumer and competition matters for the purpose of criminal investigations and proceedings in the UK and overseas. However, they also create a gateway to allow certain information to be disclosed for facilitating the exercise of certain statutory functions in the UK, and for certain civil investigations and proceedings overseas. This wider gateway is necessary for the disclosure of information relating to consumer and competition matters as overseas enforcement of such legislation is often under a civil regime. The provisions relating to the consumer legislation specified in the Anti-Terrorism, Crime and Security Act 2001 will be repealed when Part 9 of this Act comes into force, and consumer legislation will then be covered by this Part.
587. Within the UK, the provisions in this Part will enable a public authority to disclose information to facilitate the exercise of its own statutory functions and certain statutory functions of other persons and for the purposes of any criminal investigations or proceedings.
588. With regards to overseas public authorities, the provisions are more limited. It will be possible to disclose information to any overseas authority for the purpose of any criminal investigations or proceedings. However, for the purpose of civil proceedings, information can only be disclosed to those public bodies involved in the enforcement of consumer or competition legislation. In addition, competition information obtained under the Financial Services and Markets Act 2000 and certain sensitive commercial information (for example, information connected to market and merger investigations) is expressly excluded from the overseas gateway. There are also various safeguards in this Part designed to prevent the misuse of any information disclosed overseas.
589. In order to provide a consistent regime, the gateways that exist in current legislation for the disclosure of information relating to consumer and competition matters will be harmonised. Therefore, the provisions in this Part will replace the existing information disclosure provisions in the legislation listed in section 247.