



Education Act 2005

2005 CHAPTER 18

PART 4

MISCELLANEOUS

Information

109 Unauthorised disclosure of information received under section 108

- (1) A person (“X”) who discloses information which he has received by virtue of subsection (2) or (4) of section 108 and which relates to a particular person commits an offence unless the information is disclosed—
- (a) in accordance with subsection (4) of that section,
 - (b) in the course of any duty X has in connection with the exercise of functions relating to eligibility for education maintenance allowances,
 - (c) in accordance with an enactment or an order of a court,
 - (d) for the purpose of instituting, or otherwise for the purposes of, civil or criminal proceedings, or
 - (e) with consent given by or on behalf of the person to whom the information relates.
- (2) It is a defence for a person charged with an offence under subsection (1) to prove that he reasonably believed that his disclosure was lawful.
- (3) A person guilty of an offence under subsection (1) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
 - (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding [F¹the general limit in a magistrates’ court], to a fine not exceeding the statutory maximum or to both;
 - (c) on summary conviction in Scotland or Northern Ireland, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.

Changes to legislation: There are currently no known outstanding effects for the Education Act 2005, Section 109. (See end of Document for details)

- (4) In relation to an offence committed before [^{F2}2 May 2022], the reference in subsection (3)(b) to [^{F3}the general limit in a magistrates' court] is to be read as a reference to 6 months.
- (5) The reference in subsection (1)(c) to an enactment includes a reference to an enactment comprised in, or in an instrument made under—
- (a) an Act of the Scottish Parliament, or
 - (b) any Northern Ireland legislation as defined in section 24(5) of the Interpretation Act 1978 (c. 30).

Textual Amendments

- F1** Words in s. 109(3)(b) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1** table
- F2** Words in s. 109(4) substituted (28.4.2022) by [The Criminal Justice Act 2003 \(Commencement No. 33\) and Sentencing Act 2020 \(Commencement No. 2\) Regulations 2022 \(S.I. 2022/500\)](#), regs. 1(2), 5(1), **Sch. Pt. 1**
- F3** Words in s. 109(4) substituted (7.2.2023 at 12.00 p.m.) by [The Judicial Review and Courts Act 2022 \(Magistrates' Court Sentencing Powers\) Regulations 2023 \(S.I. 2023/149\)](#), regs. 1(2), 2(1), **Sch. Pt. 1** table

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