Serious Crime Act 2007

2007 CHAPTER 27

PART 3

OTHER MEASURES TO PREVENT OR DISRUPT SERIOUS AND OTHER CRIME

CHAPTER 1

PREVENTION OF FRAUD

Sharing information with anti-fraud organisations

68 Disclosure of information to prevent fraud

(1) A public authority may, for the purposes of preventing fraud or a particular kind of fraud, disclose information as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation.

(2) The information—

(a) may be information of any kind; and

(b) may be disclosed to the specified anti-fraud organisation, any members of it or any other person to whom disclosure is permitted by the arrangements concerned.

(3) Disclosure under this section does not breach—

(a) any obligation of confidence owed by the public authority disclosing the information; or

(b) any other restriction on the disclosure of information (however imposed).

(4) But nothing in this section authorises any disclosure of information which—

(a) contravenes **[**F1the data protection legislation**]**; or

(b) is prohibited by **[**F2any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016**]**.

***Changes to legislation:** There are currently no known outstanding effects for the Serious Crime Act 2007, Chapter 1. (See end of Document for details)*

F3(5) . . . . . .

F4(6) . . . . . .

(7) This section does not limit the circumstances in which information may be disclosed apart from this section.

(8) In this section—

"an anti-fraud organisation" means any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes;

[F5" the data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).**]**

"information" includes documents;

"public authority" means any public authority within the meaning of section 6 of the Human Rights Act 1998 (c. 42) (acts of public authorities); and

"specified" means specified by an order made by the Secretary of State.

Textual Amendments

F1 Words in s. 68(4)(a) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 145(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

F2 Words in s. 68(4)(b) substituted (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 19(2)** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(g)(iii)

F3 S. 68(5) repealed (8.11.2021) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 98(a)**, 206(1); S.S.I. 2021/355, art. 2

F4 S. 68(6) repealed (8.11.2021) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 98(a)**, 206(1); S.S.I. 2021/355, art. 2

F5 Words in s. 68(8) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 145(3)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)

Commencement Information

I1 S. 68(1)-(7) in force at 1.10.2008 by S.I. 2008/2504, **art. 2(b)**

I2 S. 68(8) in force at 1.3.2008 by S.I. 2008/219, **art. 3(e)**

69 Offence for certain further disclosures of information

(1) A person ("B") commits an offence, subject as follows, if—

(a) B discloses protected information which has been disclosed by a public authority—

(i) as a result of the public authority being a member of a specified anti-fraud organisation; or

(ii) otherwise in accordance with any arrangements made by such an organisation;

(b) the information—

(i) has been so disclosed by the public authority to B; or

(ii) has come into B's possession as a result (whether directly or indirectly) of such a disclosure by the public authority to another person; and

(c) B knows or suspects, or has reasonable grounds for suspecting, that the information is information of the kind mentioned in paragraphs (a) and (b).

(2) Subsection (1) does not apply to a disclosure made by B—

(a) where B is acting (whether as an employee or otherwise) on behalf of the person to whom the information was disclosed by the public authority concerned and the disclosure by B is to another person acting (whether as an employee or otherwise) on behalf of that person;

(b) for the purposes of the detection, investigation or prosecution of an offence in the United Kingdom;

(c) with the consent of the public authority concerned; or

(d) in pursuance of **[**F6**[**F7an assimilated**]** obligation**]** or a duty imposed by an enactment;

but it does apply to a disclosure made by B which does not fall within paragraphs (a) to (d) above but which (but for the offence) would have been permitted by a power conferred by an enactment.

F8(3) . . . . . .

(4) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—

(a) that the disclosure was lawful; or

(b) that the information had already and lawfully been made available to the public.

(5) In this section "protected information" means—

(a) any revenue and customs information disclosed by Revenue and Customs and revealing the identity of the person to whom it relates; or

(b) any specified information disclosed by a specified public authority.

(6) For the purposes of this section—

(a) "revenue and customs information" means information about, acquired as a result of or held in connection with the exercise of a function of the Commissioners of Revenue and Customs or an officer of Revenue and Customs in respect of a person;

(b) revenue and customs information reveals a person's identity if—

(i) it specifies his identity; or

(ii) his identity can be deduced from it; and

(c) revenue and customs information relates to a person if he is the person in respect of whom the function mentioned in paragraph (a) is exercised.

(7) In this section—

"Commissioners of Revenue and Customs" means Commissioners for Her Majesty's Revenue and Customs;

"enactment" has the same meaning as in section 14;

"public authority" has the same meaning as in section 68;

"Revenue and Customs" means—

(a) the Commissioners of Revenue and Customs;

(b) an officer of Revenue and Customs; or

(c) a person acting on behalf of the Commissioners or an officer of Revenue and Customs;

Changes to legislation: *There are currently no known outstanding effects for the Serious Crime Act 2007, Chapter 1. (See end of Document for details)*

"specified anti-fraud organisation" means any person which is a specified anti-fraud organisation for the purposes of section 68;

"specified information" means information specified or described in an order made by the Secretary of State; and

"specified public authority" means a public authority specified or described in an order made by the Secretary of State.

Textual Amendments

F6 Words in s. 69(2)(d) substituted (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **122(4)**; 2020 c. 1, Sch. 5 para. 1(1)

F7 Words in s. 69(2)(d) substituted (1.1.2024) by The Retained EU Law (Revocation and Reform) Act 2023 (Consequential Amendment) Regulations 2023 (S.I. 2023/1424), reg. 1(2), **Sch. para. 66**

F8 S. 69(3) repealed (8.11.2021) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 98(b)**, 206(1); S.S.I. 2021/355, art. 2

Commencement Information

I3 S. 69 in force at 1.10.2008 by S.I. 2008/2504, **art. 2(c)**

70 Penalty and prosecution for offence under section 69

(1) A person who commits an offence under section 69 is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(2) A prosecution for an offence under section 69 may be begun in England and Wales **[**[F9]only by or with the consent of the Director of Public Prosecutions**]**

(3) A prosecution for an offence under section 69 may be begun in Northern Ireland only—

(a) in the case of revenue and customs information disclosed by Revenue and Customs—

(i) by the Commissioners of Revenue and Customs; or

(ii) with the consent of the Director of Public Prosecutions for Northern Ireland; and

(b) in any other case, with the consent of the Director of Public Prosecutions for Northern Ireland.

(4) If an offence under section 69 committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of—

(a) an officer of the body corporate or (as the case may be) a partner or a senior officer of the partnership; or

(b) a person who was purporting to act in any such capacity;

he (as well as the body corporate or partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In the application of subsection (1)(a) in Northern Ireland, the reference to 12 months is to be read as a reference to 6 months.

[F10(5A) In the application of subsection (1)(a) in England and Wales, the reference to 12 months is to be read as a reference to the general limit in a magistrates' court subject to paragraph 8 of Schedule 13.**]**

(6) In this section—

"body corporate" includes a limited liability partnership;

"Commissioners of Revenue and Customs", "Revenue and Customs" and "revenue and customs information" have the same meaning as in section 69;

"director", in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

"officer of a body corporate" means any director, manager, secretary or other similar officer of the body corporate; and

"senior officer of a partnership" means any person who has the control or management of the business carried on by the partnership at the principal place where it is carried on.

Textual Amendments

F9 Words in s. 70(2) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 50**

F10 S. 70(5A) inserted (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), **14(3)**

Commencement Information

I4 S. 70 in force at 1.10.2008 by S.I. 2008/2504, **art. 2(c)**

71 Code of practice for disclosure of information to prevent fraud

(1) The Secretary of State must prepare, and keep under review, a code of practice with respect to the disclosure, for the purposes of preventing fraud or a particular kind of fraud, of information by public authorities as members of specified anti-fraud organisations or otherwise in accordance with any arrangements made by such organisations.

(2) Before preparing or altering the code, the Secretary of State must consult—

(a) any specified anti-fraud organisation;

(b) the Information Commissioner; and

(c) such other persons as the Secretary of State considers appropriate.

(3) A public authority must have regard to the code in (or in connection with) disclosing information, for the purposes of preventing fraud or a particular kind of fraud, as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation.

F11(4) . . . . . .

(5) The Secretary of State must—

(a) lay a copy of the code, and of any alterations to it, before Parliament; and

(b) from time to time publish the code as for the time being in force.

(6) In this section—

"information" and "public authority" have the same meaning as in section 68;

[[F12]"relevant public authority" has the meaning given by section 68(6); and**]**

"specified anti-fraud organisation" means any person which is a specified anti-fraud organisation for the purposes of section 68.

Textual Amendments

F11 S. 71(4) repealed (8.11.2021) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 98(c)(i)**, 206(1); S.S.I. 2021/355, art. 2

F12 Words in s. 71(6) repealed (S.) (8.11.2021) by Criminal Justice and Licensing (Scotland) Act 2010 (asp 13), **ss. 98(c)(ii)**, 206(1); S.S.I. 2021/355, art. 2

Commencement Information

I5 S. 71(1)(2)(4)(5) in force at 1.3.2008 by S.I. 2008/219, **art. 3(f)**

I6 S. 71(3)(6) in force at 1.10.2008 by S.I. 2008/2504, **art. 2(d)**

72 Data protection rules

In Schedule 3 to the Data Protection Act 1998 (c. 29) (conditions for processing sensitive personal data), after paragraph 7, insert—

"7A (1) The processing—

(a) is either—

(i) the disclosure of sensitive personal data by a person as a member of an anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation; or

(ii) any other processing by that person or another person of sensitive personal data so disclosed; and

(b) is necessary for the purposes of preventing fraud or a particular kind of fraud.

(2) In this paragraph "an anti-fraud organisation" means any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes."

Commencement Information

I7 S. 72 in force at 1.10.2008 by S.I. 2008/2504, **art. 2(e)**

Data matching

73 Data matching

Schedule 7 (which makes provision about data matching) has effect.

Commencement Information

I8 S. 73 in force at 1.3.2008 for specified purposes by S.I. 2008/219, **art. 3(g)**

I9 S. 73 in force at 6.4.2008 by S.I. 2008/755, **art. 16(a)**

Changes to legislation:
There are currently no known outstanding effects for the Serious Crime Act 2007, Chapter 1.