



# Health and Safety at Work etc. Act 1974

## 1974 CHAPTER 37

### PART I

#### HEALTH, SAFETY AND WELFARE IN CONNECTION WITH WORK, AND CONTROL OF DANGEROUS SUBSTANCES AND CERTAIN EMISSIONS INTO THE ATMOSPHERE

##### *Obtaining and disclosure of information*

#### **27 Obtaining of information by the Commission, the Executive, enforcing authorities etc.**

- (1) For the purpose of obtaining—
- (a) any information which [<sup>F1</sup>the Executive] needs for the discharge of its functions; or
  - (b) any information which an enforcing authority [<sup>F2</sup>other than the Office for Nuclear Regulation] needs for the discharge of the authority's functions,

[<sup>F1</sup>the Executive] may, with the consent of the Secretary of State, serve on any person a notice requiring that person to furnish to [<sup>F1</sup>the Executive] or, as the case may be, to the enforcing authority in question such information about such matters as may be specified in the notice, and to do so in such form and manner and within such time as may be so specified.

In this subsection “consent” includes a general consent extending to cases of any stated description.

- (2) Nothing in section 9 of the <sup>M1</sup>Statistics of Trade Act 1947 (which restricts the disclosure of information obtained under that Act) shall prevent or penalise—
- (a) the disclosure by a Minister of the Crown to <sup>F3</sup>... the Executive of information obtained under that Act about any undertaking within the meaning of that Act, being information consisting of the names and address of the persons carrying on the undertaking, the nature of the undertaking's activities, the numbers of persons of different descriptions who work in the undertaking, the addresses or places where activities of the undertaking are or were carried

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on, the nature of the activities carried on there, or the numbers of person of different descriptions who work or worked in the undertaking there; <sup>F4</sup> . . .

<sup>F4</sup>(b) . . . . .

[<sup>F5</sup>(3) In the preceding subsection, any reference to a Minister of the Crown or the Executive includes respectively a reference to an officer of that person or of that body and also, in the case of a reference to the Executive, includes a reference to—

- (a) a person performing any functions of the Executive on its behalf by virtue of section 13(3);
- (b) an officer of a body which is so performing any such functions; and
- (c) an adviser appointed under section 13(7).]

(4) A person to whom information is disclosed in pursuance of subsection (2) above shall not use the information for a purpose other than a purpose <sup>F6</sup> . . . of the Executive.

#### Textual Amendments

- F1** Words in s. 27(1) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 11\(2\)](#) (with [art. 21](#), [Sch. 2](#))
- F2** Words in s. 27(1)(b) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 7](#); [S.I. 2014/251](#), [art. 4](#)
- F3** Words in s. 27(2) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 11\(3\)](#) (with [art. 21](#), [Sch. 2](#))
- F4** S. 27(2)(b) and the word “or” immediately preceding it repealed by [Employment Act 1989 \(c. 38\)](#), [SIF 43:1](#), s. 29(3)(4), [Sch. 6 para. 10\(2\)](#), [Sch. 7 pt. 1](#)
- F5** S. 27(3) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 11\(4\)](#) (with [art. 21](#), [Sch. 2](#))
- F6** Words in s. 27(4) omitted (1.4.2008) by virtue [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 11\(5\)](#) (with [art. 21](#), [Sch. 2](#))

#### Modifications etc. (not altering text)

- C20** S. 27 applied by [S.I. 1989/840](#), [arts. 2-10](#)  
 S. 27: power to apply conferred (E.W.S.) (28.8.1995) by [1995 c. 15](#), [ss. 2\(4\)\(e\)](#), 5 (with s. 3(5))  
 S. 27 applied (with modifications) (E.W.S.) (16.4.1996) by [S.I. 1996/772](#), [reg. 17](#)  
 S. 27 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), [reg. 15](#), [Sch. 14 para. 1\(b\)](#)  
 S. 27 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), [reg. 19\(1\)-\(4\)](#), [Sch. 15 para. 1\(a\)\(b\)](#)
- C21** Ss. 19-28 modified (6.4.1992) by [S.I. 1992/711](#), [regs. 1\(2\)](#), 28(3)(b)(5)(a)  
 S. 27 extended (with modifications) (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), [Sch. 22 para. 30\(5\)](#) (with [ss. 7\(6\)](#), 115, 117); [S.I. 1996/186](#), [art. 3](#)
- C22** S. 27 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), [reg. 28](#), [Sch. 6 para. 1\(b\)](#)
- C23** S. 27 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), [reg. 24\(1\)](#), [Sch. 8 para. 1\(b\)](#)
- C24** S. 27 applied (11.7.2001) by [S.I. 2001/2127](#), [arts. 4\(1\)](#), 5(1)(2), 6(1), 7(1), 8(1), 10 (with [art. 11](#)) (as amended by [S.I. 2009/1750](#), [art. 2\(2\)\(4\)](#))
- C25** S. 27 applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), [reg. 23\(3\)\(d\)](#); s. 27 applied (with modifications) (E.W.S.) (9.6.2004) by [S.I. 2004/1309](#), [reg. 17](#); s. 27 applied (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), [reg. 4\(2\)\(3\)\(5\)\(6\)](#)
- C26** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), [arts. 8A](#), [8B](#) (as inserted by [S.I. 2009/1750](#), [art. 2\(3\)](#))

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- C27** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\)](#), **regs. 1, 18, 37(1)**, {Sch. 4 paras. 1, 2}
- C28** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C29** Ss. 25A-28 applied (with modifications) (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)31)
- C30** S. 27(1) applied (with modifications) (E.W.S.) (22.9.2003) by S.I. 2003/403, **reg. 23(2)(d)(3)(5)** (as amended (25.11.2006) by S.I. 2006/2815, **reg. 8**)

#### Marginal Citations

- M1** 1947 c. 39.

#### [<sup>F8</sup> 27A [<sup>F7</sup> Information communicated by Commissioners for Revenue and Customs].

- (1) If they think it appropriate to do so for the purpose of facilitating the exercise or performance by any person to whom sub-section (2) below applies of any of that person's powers or duties under any of the relevant statutory provisions, [<sup>F9</sup>the Commissioners for Her Majesty's Revenue and Customs] may authorise the disclosure to that person of any information obtained [<sup>F10</sup>or held] for the purposes of the exercise [<sup>F11</sup>by Her Majesty's Revenue and Customs] of their functions in relation to imports.
- (2) This subsection applies to an enforcing authority and to an inspector [<sup>F12</sup>, other than the Office for Nuclear Regulation or an inspector appointed by the Office for Nuclear Regulation].
- (3) A disclosure of information made to any person under subsection (1) above shall be made in such manner as may be directed by [<sup>F13</sup>the Commissioners for Her Majesty's Revenue and Customs]and may be made through such persons acting on behalf of that person as may be so directed.
- (4) Information may be disclosed to a person under subsection (1) above whether or not the disclosure of the information has been requested by or on behalf of that person.]

#### Textual Amendments

- F7** S. 27A heading substituted (18.4.2005) by virtue of [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), **Sch. 4 para. 18(4)**; S.I. 2005/1126, **art. 2(2)(h)**
- F8** S. 27A inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 4**
- F9** Words in s. 27A(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), **Sch. 4 para. 18(2)(a)**; S.I. 2005/1126, **art. 2(2)(h)**
- F10** Words in s. 27A(1) inserted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), **Sch. 4 para. 18(2)(b)**; S.I. 2005/1126, **art. 2(2)(h)**
- F11** Words in s. 27A(1) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), **Sch. 4 para. 18(2)(c)**; S.I. 2005/1126, **art. 2(2)(h)**
- F12** Words in s. 27A(2) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 8**; S.I. 2014/251, art. 4
- F13** Words in s. 27A(3) substituted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), ss. 50, 53(1), **Sch. 4 para. 18(3)**; S.I. 2005/1126, **art. 2(2)(h)**

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**Modifications etc. (not altering text)**

- C28** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C29** Ss. 25A-28 applied (with modifications) (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)31)
- C31** Ss. 19-28 applied (with modifications) (1.1.1993) by [S.I. 1992/3073](#), reg. 28, **Sch. 6 para. 1(b)**  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.3.1996) by [S.I. 1996/192](#), reg. **15**, **Sch. 14 para. 1(b)**  
 Ss. 19-28, 33-35, 38, 39, 41, 42 applied (with modifications) (E.W.S.) (1.7.1997) by [S.I. 1997/831](#), reg. **19(1)-(4)**, **Sch. 15 para. 1(a)(b)**
- C32** Ss. 19-28 modified (6.4.1992) by [S.I. 1992/711](#), **regs. 1(2)**, 28(3)(b)(5)(a)
- C33** Ss. 19-28 applied (with modifications) (29.11.1999) by [S.I. 1999/2001](#), reg. 24(1), **Sch. 8 para. 1(b)**
- C34** Ss. 1-59, 80-82 applied (11.7.2001) by [S.I. 2001/2127](#), **arts. 4(1)**, 5(1)(2), 6(1), 7(1), 8(1), 10 (with art. 11) (as amended by [S.I. 2009/1750](#), **art. 2(2)(4)**)
- C35** S. 27A applied (with modifications) (E.W.S.) (3.5.2004) by [S.I. 2004/129](#), **reg. 23(3)(d)**; s. 27A applied (with modifications) (E.W.S.) (22.4.2005) by [S.I. 2005/928](#), **reg. 4(2)-(6)**
- C36** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by [S.I. 2009/1750](#), **art. 2(3)**)
- C37** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by [The Pyrotechnic Articles \(Safety\) Regulations 2010 \(S.I. 2010/1554\)](#), **regs. 1**, 18, 37(1), {Sch. 4 paras. 1, 2}

**28 Restrictions on disclosure of information. E+W**

- (1) In this and the two following subsections—
- (a) “relevant information” means information obtained by a person under section 27(1) or furnished to any person [<sup>F14</sup>, other than the Office for Nuclear Regulation (or an inspector appointed by it), ] [<sup>F15</sup>under section 27A above [<sup>F16</sup>, by virtue of section 43A(6) below]or] in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding subsection shall not apply to—
- (a) disclosure of information to <sup>F17</sup>. . . the Executive [<sup>F18</sup>, the Office for Nuclear Regulation, ], [<sup>F19</sup> the Environment Agency, [<sup>F20</sup>the Natural Resources Body for Wales,]the Scottish Environment Protection Agency,] a government department or any enforcing authority;
  - (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;
  - (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to—

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- (i) an officer of a local authority who is authorised by that authority to receive it,
  - [<sup>F21</sup>(ii) an officer <sup>F22</sup> . . . of a water undertaker, sewerage undertaker, water authority or water development board who is authorised by that <sup>F23</sup> . . . undertaker, authority or board to receive it, ]
  - <sup>F24</sup>(iii) . . . . .
  - (iv) a constable authorised by a chief officer of police to receive it;
  - (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
  - (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of [<sup>F25</sup>section 14(2) or (2A)] , or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of [<sup>F25</sup>section 14(2) or (2A)].
  - [<sup>F26</sup>(f) any other disclosure of information by the recipient, if–
    - (i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
    - (ii) the information is not held by the authority on behalf of another person.]
- [<sup>F27</sup>(4) In the preceding subsection, any reference to the Executive [<sup>F28</sup>, the Office for Nuclear Regulation,], the Environment Agency, [<sup>F29</sup>the Natural Resources Body for Wales,] the Scottish Environment Protection Agency, a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Executive [<sup>F30</sup>or the Office for Nuclear Regulation ], includes a reference to—
- (a) a person performing any functions of the Executive [<sup>F31</sup>or Office for Nuclear Regulation ] on its behalf by virtue of section 13(3) [<sup>F31</sup>of this Act or, as the case may be, section 95 of the Energy Act 2013 ];
  - (b) an officer of a body which is so performing any such functions; and
  - (c) an adviser appointed under section 13(7) [<sup>F32</sup>or, in the case of the Office for Nuclear Regulation, a person providing advice to that body.]
- (5) A person to whom information is disclosed in pursuance of [<sup>F33</sup>any of paragraphs (a) to (e) of] subsection (3) above shall not use the information for a purpose other than—
- (a) in a case falling within paragraph (a) of that subsection, a purpose <sup>F34</sup> . . . of the Executive [<sup>F35</sup>, of the Office for Nuclear Regulation ] or [<sup>F36</sup>of the Environment Agency [<sup>F37</sup>or of the Natural Resources Body for Wales]or of the Scottish Environment Protection Agency or]of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
  - (b) in the case of information given to an officer of a [<sup>F38</sup>body which is a local authority, <sup>F39</sup> . . . a water undertaker, a sewerage undertaker, a water authority, a river purification board or a water development board, the purposes of the body] in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;
  - (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.

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[<sup>F40</sup>(6) References in subsections (3) and (5) above to a local authority include <sup>F41</sup> . . . a joint authority established by Part IV of the Local Government Act 1985, [<sup>F42</sup> an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act, ] [<sup>F43</sup> an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities) ] [<sup>F44</sup> and the London Fire and Emergency Planning Authority ] . ]

- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—
- (a) for the purposes of his functions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of [<sup>F45</sup>section 14(2) or (2A)] or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of [<sup>F45</sup>section 14(2) or (2A)]; or
  - (c) with the relevant consent.

In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

- (8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—
- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
  - (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;
- and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

[<sup>F46</sup>(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection].

[<sup>F47</sup>(9A) Subsection (7) above does not apply if—

- (a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
- (b) the information is not held by the authority on behalf of another person.]

[<sup>F48</sup>(9B) Nothing in subsection (7) or (9) applies to a person appointed as an inspector by the Office for Nuclear Regulation in relation to functions which the person has by virtue of that appointment.]

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[<sup>F49</sup>(10) The Broads Authority and every National Park authority shall be deemed to be local authorities for the purposes of this section.]

### Extent Information

**E2** This version of this provision extends to England and Wales only; separate versions have been created for Scotland only and for Northern Ireland (in so far as this provision extends there, see s. 84(1)).

### Textual Amendments

- F14** Words in s. 28(1)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 9(2)**; S.I. 2014/251, art. 4
- F15** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 5**
- F16** Words in s. 28(1)(a) inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), **ss. 105(2), 120**
- F17** Words in s. 28(3)(a) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), **art. 12(2)(a)** (with art. 21, Sch. 2)
- F18** Words in s. 28(3)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 9(3)**; S.I. 2014/251, art. 4
- F19** Words in s. 28(3)(a) inserted (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), **Sch. 22 para. 30(6)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F20** Words in s. 28(3)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 112(2)** (with Sch. 7)
- F21** S. 28(3)(c)(ii) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 46(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F22** Words in s. 28(3)(c)(ii) repealed (E.W.) (1.4.1996) by [1995 c. 25](#), s. 120(1), Sch. 22 para. 30(6)(b)(i), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F23** Word in s. 28(3)(c)(ii) repealed (E.W.) (1.4.1996) by [1995 c. 25](#), s. 120(1), Sch. 22 para. 30(6)(b)(ii), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F24** S. 28(3)(c)(iii) repealed (E.W.S.) (1.4.1996) by [1995 c. 25](#), s. 120(1), Sch. 22 para. 30(6)(d), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F25** Words in s. 28(3)(e) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), **art. 12(2)(b)** (with art. 21, Sch. 2)
- F26** S. 28(3)(f) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(2)**
- F27** S. 28(4) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), **art. 12(3)** (with art. 21, Sch. 2)
- F28** Words in s. 28(4) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 9(4)(a)(i)**; S.I. 2014/251, art. 4
- F29** Words in s. 28(4) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), **Sch. 2 para. 112(3)** (with Sch. 7)
- F30** Words in s. 28(4) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 9(4)(a)(ii)**; S.I. 2014/251, art. 4
- F31** Words in s. 28(4)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 9(4)(b)**; S.I. 2014/251, art. 4
- F32** Words in s. 28(4)(c) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), **Sch. 12 para. 9(4)(c)**; S.I. 2014/251, art. 4
- F33** Words in s. 28(5) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(3)**
- F34** Words in s. 28(5)(a) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), **art. 12(4)** (with art. 21, Sch. 2)



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- F35** Words in s. 28(5)(a) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 9(5)**; S.I. 2014/251, art. 4
- F36** Words in s. 28(5)(a) inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(f)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F37** Words in s. 28(5)(a) inserted (1.4.2013) by The Natural Resources Body for Wales (Functions) Order 2013 (No. 755), art. 1(2), **Sch. 2 para. 112(4)** (with Sch. 7)
- F38** Words substituted by Water Act 1989 (c. 15, SIF 130), s. 190, **Sch. 25 para. 46(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F39** Words in s. 28(5)(b) repealed (E.W.) (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 30(6)(f)(ii), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F40** S. 28(6) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 para. 52**
- F41** Words repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. 1**
- F42** Words in s. 28(6) inserted (17.12.2009) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 119, 148(6), **Sch. 6 para. 42**; S.I. 2009/3318, **art. 2**
- F43** Words in s. 28(6) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), ss. 209, 245, **Sch. 13 para. 32**; S.I. 2008/917, **art. 2(1)(o)(p)**
- F44** Words in s. 28(6) added (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 23** (with Sch. 12 para. 9(1)); S.I. 2000/1094, **art. 4**
- F45** Words in s. 28(7) substituted (1.4.2008) by The Legislative Reform (Health and Safety Executive) Order 2008 (S.I. 2008/960), **art. 12(5)** (with art. 21, Sch. 2)
- F46** S. 28(9) inserted by Employment Protection Act 1975 (c. 71), **Sch. 15 para. 9**
- F47** S. 28(9A) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(4)**
- F48** S. 28(9B) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 9(6)**; S.I. 2014/251, art. 4
- F49** S. 28(10) substituted (E.W.) (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 12** (with ss. 7(6), 115, 117); S.I. 1995/2950, **art. 2**

#### **Modifications etc. (not altering text)**

- C28** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), arts. 1(1), **3(2)**)
- C29** Ss. 25A-28 applied (with modifications) (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(4), **19** (with reg. 3(4)(5)31)
- C38** S. 28 applied by S.I. 1989/840, **arts. 2-10**  
 S. 28 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 28 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 28: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(e), 5** (with s. 3(5))  
 S. 28 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, reg. 15, **Sch. 14 para. 1(b)**  
 S. 28 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, reg. 19(1)-(4), **Sch. 15 para. 1(a)(b)**  
 S. 28 restricted (15.11.2000) by S.I. 2000/2831, **reg. 23(1)**
- C39** S. 28 amended by S.I. 1982/1496, **reg. 10(1)**  
 S. 28 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(e)** (with ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2))
- C40** S. 28 amended by Local Government Act 1985 (c. 51, SIF 81:1), s. 57(7), **Sch. 13 para. 13(f)**
- C41** S. 28 restricted (E.W.S.) (1.2.1993) by S.I. 1992/3217, **reg. 15**  
 S. 28 excluded (E.W.S.) (1.4.1999) by S.I. 1999/743, **reg. 21(5)**.
- C42** S. 28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**
- C43** S. 28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**



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- C44** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C45** S. 28 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(e)(3)**
- C46** S. 28 applied (E.W.S.) by S.I. 2005/928, **art. 4(3)(b)**
- C47** S. 28 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by **The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), art. 4(2)(3)(g)** (subject to (4)-(6)) (with art. 7)
- C48** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by **The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B** (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C49** S. 28 applied (with modifications) (E.W.S.) (6.4.2010) by **The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), reg. 6(2)(3)(f)**
- C50** S. 28 applied (with modifications) (E.W.S.) (6.4.2010) by **The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), regs. 1(2), 38(2)(3)(f)**
- C51** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by **The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), regs. 1, 18, 37(1), {Sch. 4 paras. 1, 2}**
- C52** S. 28 applied (with modifications) (16.1.2012) by **The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), regs. 1(2), 39(2)(3)(f)** (with reg. 3)
- C53** S. 28(6) extended by S.I. 1985/1884, **art. 10, Sch. 3 para. 4**  
s. 28 extended (31.1.1994) by S.I. 1993/3050, **art. 18(1)** (with art. 3).
- C54** S. 28(7): Disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt. 1 para. 12**

## 28 Restrictions on disclosure of information. **S**

- (1) In this and the two following subsections—
- (a) “relevant information” means information obtained by a person under section 27(1) or furnished to any person [<sup>F14</sup>, other than the Office for Nuclear Regulation (or an inspector appointed by it), ] [<sup>F50</sup>under section 27A above [<sup>F16</sup>, by virtue of section 43A(6) below] or] in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding subsection shall not apply to—
- (a) disclosure of information to <sup>F17</sup>. . . the Executive [<sup>F18</sup>, the Office for Nuclear Regulation, ], [<sup>F51</sup>the Environment Agency, [<sup>F20</sup>the Natural Resources Body for Wales,]the Scottish Environment Protection Agency,] a government department or any enforcing authority;
  - (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;
  - (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to—
    - (i) an officer of a local authority who is authorised by that authority to receive it,

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- [<sup>F52</sup>(ii) an officer of a water undertaker, sewerage undertaker, [<sup>F53</sup>or Scottish Water] who is authorised by [<sup>F54</sup>that undertaker or, as the case may be, Scottish Water] to receive it;]
- <sup>F55</sup>(iii) . . . . .
- (iv) a constable authorised by a chief officer of police to receive it;
- (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
- (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of [<sup>F25</sup>section 14(2) or (2A)], or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of [<sup>F25</sup>section 14(2) or (2A)].
- [<sup>F56</sup>(f) any other disclosure of information by the recipient, if–
- (i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000 [<sup>F57</sup>or a Scottish public authority for the purposes of the Freedom of Information (Scotland) Act 2002] , and
- (ii) the information is not held by the authority on behalf of another person.]
- [<sup>F27</sup>(4) In the preceding subsection, any reference [<sup>F28</sup>, the Office for Nuclear Regulation,], the Environment Agency, [<sup>F29</sup>the Natural Resources Body for Wales,] the Scottish Environment Protection Agency, a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Executive [<sup>F30</sup>or the Office for Nuclear Regulation ], includes a reference to—
- (a) a person performing any functions of the Executive [<sup>F31</sup>or Office for Nuclear Regulation ] on its behalf by virtue of section 13(3) [<sup>F31</sup> of this Act or, as the case may be, section 95 of the Energy Act 2013 ];
- (b) an officer of a body which is so performing any such functions; and
- (c) an adviser appointed under section 13(7) [<sup>F32</sup>or, in the case of the Office for Nuclear Regulation, a person providing advice to that body.]]
- (5) A person to whom information is disclosed in pursuance of [<sup>F58</sup>any of paragraphs (a) to (e) of] subsection (3) above shall not use the information for a purpose other than—
- (a) in a case falling within paragraph (a) of that subsection, a purpose [<sup>F34</sup> . . . of the Executive [<sup>F35</sup>, of the Office for Nuclear Regulation ]or [<sup>F59</sup> of the Environment Agency [<sup>F37</sup>or of the Natural Resources Body for Wales]or of the Scottish Environment Protection Agency or] of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
- (b) [<sup>F60</sup>in the case of information given to an officer of a body which is a local authority, a water undertaker, [<sup>F61</sup>or a sewerage undertaker or to an officer of Scottish Water,] the purposes of the body [<sup>F62</sup>authority, undertaker or, as the case may be, Scottish Water] in connection] with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;
- (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.

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[<sup>F63</sup>(6) References in subsections (3) and (5) above to a local authority include <sup>F41</sup> . . . a joint authority established by Part IV of the Local Government Act 1985, [<sup>F42</sup> an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act, ] [<sup>F43</sup> an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities) ] [<sup>F44</sup> and the London Fire and Emergency Planning Authority ] . ]

- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—
- (a) for the purposes of his functions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of [<sup>F45</sup>section 14(2) or (2A)] or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of [<sup>F45</sup>section 14(2) or (2A)]; or
  - (c) with the relevant consent.

In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

- (8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—
- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
  - (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;
- and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

[<sup>F64</sup>(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection].

[<sup>F65</sup>(9A) Subsection (7) above does not apply if—

- (a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000 [<sup>F66</sup>or a Scottish public authority for the purposes of the Freedom of Information (Scotland) Act 2002] , and
- (b) the information is not held by the authority on behalf of another person.]

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[<sup>F48</sup>(9B) Nothing in subsection (7) or (9) applies to a person appointed as an inspector by the Office for Nuclear Regulation in relation to functions which the person has by virtue of that appointment.]

[<sup>F67</sup>(10) For the purposes of this section the Broads Authority shall be treated as a local authority.]

### Extent Information

**E3** This version of this provision extends to Scotland only; separate versions of this provision have been created for England and Wales only and for Northern Ireland (in so far as this provision extends there, see s. 84(1))

### Textual Amendments

- F14** Words in s. 28(1)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(2\)](#); S.I. 2014/251, art. 4
- F16** Words in s. 28(1)(a) inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), [ss. 105\(2\)](#), [120](#)
- F17** Words in s. 28(3)(a) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(2\)\(a\)](#) (with art. 21, Sch. 2)
- F18** Words in s. 28(3)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(3\)](#); S.I. 2014/251, art. 4
- F20** Words in s. 28(3)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 112\(2\)](#) (with Sch. 7)
- F25** Words in s. 28(3)(e) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(2\)\(b\)](#) (with art. 21, Sch. 2)
- F27** S. 28(4) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(3\)](#) (with art. 21, Sch. 2)
- F28** Words in s. 28(4) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(a\)\(i\)](#); S.I. 2014/251, art. 4
- F29** Words in s. 28(4) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 112\(3\)](#) (with Sch. 7)
- F30** Words in s. 28(4) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(a\)\(ii\)](#); S.I. 2014/251, art. 4
- F31** Words in s. 28(4)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(b\)](#); S.I. 2014/251, art. 4
- F32** Words in s. 28(4)(c) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(c\)](#); S.I. 2014/251, art. 4
- F34** Words in s. 28(5)(a) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(4\)](#) (with art. 21, Sch. 2)
- F35** Words in s. 28(5)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(5\)](#); S.I. 2014/251, art. 4
- F37** Words in s. 28(5)(a) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 112\(4\)](#) (with Sch. 7)
- F41** Words repealed by [Education Reform Act 1988 \(c. 40\)](#), SIF 41:1), ss. 231(7), 235(6), 237(2), [Sch. 13 Pt. I](#)
- F42** Words in s. 28(6) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 119, 148(6), [Sch. 6 para. 42](#); S.I. 2009/3318, [art. 2](#)
- F43** Words in s. 28(6) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 209, 245, [Sch. 13 para. 32](#); S.I. 2008/917, [art. 2\(1\)\(o\)\(p\)](#)
- F44** Words in s. 28(6) added (3.7.2000) by 1999 c. 29, s. 328(8), [Sch. 29 para. 23](#) (with Sch. 12 para. 9(1)); S.I. 2000/1094, [art. 4](#)

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- F45** Words in s. 28(7) substituted (1.4.2008) by The Legislative Reform (Health and Safety Executive) Order 2008 (S.I. 2008/960), **art. 12(5)** (with art. 21, Sch. 2)
- F48** S. 28(9B) inserted (1.4.2014) by Energy Act 2013 (c. 32), s. 156(1), **Sch. 12 para. 9(6)**; S.I. 2014/251, art. 4
- F50** Words inserted by Consumer Protection Act 1987 (c. 43, SIF 109:1), s. 36, **Sch. 3 para. 5**
- F51** Words in s. 28(3)(a) inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F52** S. 28(3)(c)(ii) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(c)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F53** Words in s. 28(3)(c)(ii) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822) art. 2, {Sch. Pt. 1 para. 8(a)(i)}
- F54** Words in s. 28(3)(c)(ii) substituted (S.) (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822), art. 2, **Sch. para. 8(a)(ii)**
- F55** S. 28(3)(c)(iii) repealed (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 30(6)(d), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F56** S. 28(3)(f) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(2)**
- F57** Words in s. 28(3)(f)(i) inserted (S.) (13.10.2008) by The Freedom of Information (Relaxation of Statutory Prohibitions on Disclosure of Information) (Scotland) Order 2008 (S.S.I. 2008/339), **art 5(2)**
- F58** Words in s. 28(5) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(3)**
- F59** Words in s. 28(5)(a) inserted (E.W.S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(f)(i)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F60** Words in s. 28(5)(b) substituted (S.) (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 30(6)(f)(iii)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 2**
- F61** Words in s. 28(5)(b) substituted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/ 1822) art. 2, {Sch. Pt. 1 para. 8(b)(i)}
- F62** Words in s. 28(5)(b) inserted (14.7.2004) by The Water Industry (Scotland) Act 2002 (Consequential Modifications) Order 2004 (S.I. 2004/1822) art. 2, {Sch. Pt. 1 para. 8(b)(ii)}
- F63** S. 28(6) substituted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 para. 52**
- F64** S. 28(9) inserted by Employment Protection Act 1975 (c. 71), **Sch. 15 para. 9**
- F65** S. 28(9A) inserted (1.1.2005) by The Freedom of Information (Removal and Relaxation of Statutory Prohibitions on Disclosure of Information) Order 2004 (S.I. 2004/3363), **art. 5(4)**
- F66** Words in s. 28(9A)(a) inserted (S.) (13.10.2008) by The Freedom of Information (Relaxation of Statutory Prohibitions on Disclosure of Information) (Scotland) Order 2008 (S.S.I. 2008/339), **art 5(3)**
- F67** S. 28(10) added by Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1), s. 21, **Sch. 6 para. 13**

#### **Modifications etc. (not altering text)**

- C28** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) (Variation) Order 2011 (S.I. 2011/745), arts. 1(1), **3(2)**)
- C29** Ss. 25A-28 applied (with modifications) (1.3.2014) by The Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013 (S.I. 2013/1506), regs. 2(4), **19** (with reg. 3(4)(5)31)
- C48** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by The Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 2001 (S.I. 2001/2127), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C49** S. 28 applied (with modifications) (E.W.S.) (6.4.2010) by The Rail Vehicle Accessibility (Non-Interoperable Rail System) Regulations 2010 (S.I. 2010/432), **reg. 6(2)(3)(f)**
- C52** S. 28 applied (with modifications) (16.1.2012) by The Railways (Interoperability) Regulations 2011 (S.I. 2011/3066), regs. 1(2), **39(2)(3)(f)** (with reg. 3)
- C53** S. 28(6) extended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4**  
s. 28 extended (31.1.1994) by S.I. 1993/3050, **art. 18(1)** (with art. 3).

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- C55** S. 28 applied by S.I. 1989/840, **arts. 2-10**  
 S. 28 excluded (with saving) (E.W.S.) (1.12.1997) by S.I. 1997/1840, **regs. 7, 9**  
 S. 28 extended (E.W.S.) (1.10.1996) by S.I. 1996/1513, **reg. 10**  
 S. 28: power to apply conferred (E.W.S.) (28.8.1995) by 1995 c. 15, **ss. 2(4)(e), 5** (with s. 3(5))  
 S. 28 applied (with modifications) (E.W.S.) (1.3.1996) by S.I. 1996/192, **reg. 15, Sch. 14 para. 1(b)**  
 S. 28 applied (with modifications) (E.W.S.) (1.7.1997) by S.I. 1997/831, **reg. 19(1)-(4), Sch. 15 para. 1(a)(b)**  
 S. 28 restricted (15.11.2000) by S.I. 2000/2831, **reg. 23(1)**
- C56** S. 28 amended by S.I. 1982/1496, **reg. 10(1)**  
 S. 28 extended (5.7.1994) by 1994 c. 19, **ss. 39, 66(2)(b), Sch. 13 para. 20(e)** (with **ss. 54(5)(7), 55(5), Sch. 17 paras. 22(1), 23(2)**)
- C57** S. 28 restricted (E.W.S.) (1.2.1993) by S.I. 1992/3217, **reg. 15**  
 S. 28 excluded (E.W.S.) (1.4.1999) by S.I. 1999/743, **reg. 21(5)**.
- C58** Ss. 19-28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, **reg. 28, Sch. 6 para. 1(b)**
- C59** Ss. 19-28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C60** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C61** S. 28 applied (with modifications) (E.W.S.) (22.3.2003 for certain purposes and 22.9.2003 otherwise) by S.I. 2003/403, **regs. 1(2), 23(2)(e)(3)**
- C62** S. 28 applied (E.W.S.) by S.I. 2005/928, **art. 4(3)(b)**
- C63** S. 28 applied (with modifications) (E.W.S.) (the amendment coming into force in accordance with art. 1(1) of the amending S.I.) by The Channel Tunnel (Safety) Order 2007 (S.I. 2007/3531), **art. 4(2)(3)(g)** (subject to (4)-(6)) (with art. 7)
- C64** S. 28 applied (with modifications) (E.W.S.) (6.4.2010) by The Train Driving Licences and Certificates Regulations 2010 (S.I. 2010/724), **regs. 1(2), 38(2)(3)(f)**
- C65** Ss. 19-28 applied (with modifications) (E.W.S.) (4.7.2010 for certain purposes and otherwise 4.7.2013) by The Pyrotechnic Articles (Safety) Regulations 2010 (S.I. 2010/1554), **regs. 1, 18, 37(1), {Sch. 4 paras. 1, 2}**
- C66** S. 28(7): Disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt. 1 para. 12**

## 28 Restrictions on disclosure of information. **N.I.**

- (1) In this and the two following subsections—
- (a) “relevant information” means information obtained by a person under section 27(1) or furnished to any person <sup>F14</sup>, other than the Office for Nuclear Regulation (or an inspector appointed by it), <sup>F68</sup>under section 27A above <sup>F16</sup>, by virtue of section 43A(6) below] or] in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) “the recipient”, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.
- (3) The preceding subsection shall not apply to—
- (a) disclosure of information to <sup>F17</sup>. . . the Executive<sup>F18</sup>, the Office for Nuclear Regulation, ], a government department or any enforcing authority;
  - (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;



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- (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to—
- (i) an officer of a local authority who is authorised by that authority to receive it,
  - <sup>[F69]</sup>(ii) an officer of the National Rivers Authority or of a water undertaker, sewerage undertaker, water authority or water development board who is authorised by that Authority, undertaker, authority or board to receive it,]
  - (iii) an officer of a river purification board who is authorised by that board to receive it, or
  - (iv) a constable authorised by a chief officer of police to receive it;
- (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
- (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of <sup>[F25]</sup>section 14(2) or (2A)], or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of <sup>[F25]</sup>section 14(2) or (2A)].
- <sup>[F70]</sup>(f) any other disclosure of information by the recipient, if—
- (i) the recipient is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
  - (ii) the information is not held by the authority on behalf of another person.]
- <sup>[F27]</sup>(4) In the preceding subsection, any reference to the Executive <sup>[F28]</sup>, the Office for Nuclear Regulation, ], the Environment Agency, <sup>[F29]</sup>the Natural Resources Body for Wales, ] the Scottish Environment Protection Agency, a government department or an enforcing authority includes respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Executive <sup>[F30]</sup>or the Office for Nuclear Regulation ], includes a reference to—
- (a) a person performing any functions of the Executive <sup>[F31]</sup>or Office for Nuclear Regulation] on its behalf by virtue of section 13(3) <sup>[F31]</sup> of this Act or, as the case may be, section 95 of the Energy Act 2013];
  - (b) an officer of a body which is so performing any such functions; and
  - (c) an adviser appointed under section 13(7) <sup>[F32]</sup>or, in the case of the Office for Nuclear Regulation, a person providing advice to that body.]]
- (5) A person to whom information is disclosed in pursuance of <sup>[F71]</sup>any of paragraphs (a) to (e) of] subsection (3) above shall not use the information for a purpose other than—
- (a) in a case falling within paragraph (a) of that subsection, a purpose <sup>F34</sup>. . . of the Executive <sup>[F35]</sup>, of the Office for Nuclear Regulation ] or of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
  - (b) in the case of information given to an officer of a <sup>[F72]</sup>body which is a local authority, the National Rivers Authority, a water undertaker, a sewerage undertaker, a water authority, a river purification board or a water development board, the purposes of the body] in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;

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- (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.
- [<sup>F73</sup>(6) References in subsections (3) and (5) above to a local authority include <sup>F41</sup> . . . a joint authority established by Part IV of the Local Government Act 1985, [<sup>F42</sup> an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009, a combined authority established under section 103 of that Act, ] [<sup>F43</sup> an authority established for an area in England by an order under section 207 of the Local Government and Public Involvement in Health Act 2007 (joint waste authorities) ] [<sup>F44</sup> and the London Fire and Emergency Planning Authority ] . ]
- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except—
- (a) for the purposes of his functions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of [<sup>F45</sup>section 14(2) or (2A)] or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of [<sup>F45</sup>section 14(2) or (2A)]; or
  - (c) with the relevant consent.
- In this subsection “the relevant consent” means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.
- (8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say—
- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
  - (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;
- and, where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.
- [<sup>F74</sup>(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection].
- [<sup>F75</sup>(9A) Subsection (7) above does not apply if—
- (a) the person who has obtained any such information as is referred to in that subsection is, or is acting on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000, and
  - (b) the information is not held by the authority on behalf of another person.]

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[<sup>F48</sup>(9B) Nothing in subsection (7) or (9) applies to a person appointed as an inspector by the Office for Nuclear Regulation in relation to functions which the person has by virtue of that appointment.]

[<sup>F76</sup>(10) For the purposes of this section the Broads Authority shall be treated as a local authority.]

### Extent Information

**E4** This version of this provision applies to Northern Ireland (in so far as this provision extends there, see s. 84(1)(a)); separate versions of this provision have been created for England and Wales only and Scotland only

### Textual Amendments

**F14** Words in s. 28(1)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(2\)](#); S.I. 2014/251, art. 4

**F16** Words in s. 28(1)(a) inserted (10.9.2003) by [Railways and Transport Safety Act 2003 \(c. 20\)](#), [ss. 105\(2\), 120](#)

**F17** Words in s. 28(3)(a) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(2\)\(a\)](#) (with art. 21, Sch. 2)

**F18** Words in s. 28(3)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(3\)](#); S.I. 2014/251, art. 4

**F25** Words in s. 28(3)(e) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(2\)\(b\)](#) (with art. 21, Sch. 2)

**F27** S. 28(4) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(3\)](#) (with art. 21, Sch. 2)

**F28** Words in s. 28(4) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(a\)\(i\)](#); S.I. 2014/251, art. 4

**F29** Words in s. 28(4) inserted (1.4.2013) by [The Natural Resources Body for Wales \(Functions\) Order 2013 \(No. 755\)](#), art. 1(2), [Sch. 2 para. 112\(3\)](#) (with Sch. 7)

**F30** Words in s. 28(4) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(a\)\(ii\)](#); S.I. 2014/251, art. 4

**F31** Words in s. 28(4)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(b\)](#); S.I. 2014/251, art. 4

**F32** Words in s. 28(4)(c) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(4\)\(c\)](#); S.I. 2014/251, art. 4

**F34** Words in s. 28(5)(a) omitted (1.4.2008) by virtue of [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(4\)](#) (with art. 21, Sch. 2)

**F35** Words in s. 28(5)(a) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(5\)](#); S.I. 2014/251, art. 4

**F41** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), [ss. 231\(7\), 235\(6\), 237\(2\)](#), [Sch. 13 Pt. I](#)

**F42** Words in s. 28(6) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), [ss. 119, 148\(6\)](#), [Sch. 6 para. 42](#); S.I. 2009/3318, [art. 2](#)

**F43** Words in s. 28(6) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 209, 245](#), [Sch. 13 para. 32](#); S.I. 2008/917, [art. 2\(1\)\(o\)\(p\)](#)

**F44** Words in s. 28(6) added (3.7.2000) by 1999 c. 29, s. 328(8), [Sch. 29 para. 23](#) (with Sch. 12 para. 9(1)); S.I. 2000/1094, [art. 4](#)

**F45** Words in s. 28(7) substituted (1.4.2008) by [The Legislative Reform \(Health and Safety Executive\) Order 2008 \(S.I. 2008/960\)](#), [art. 12\(5\)](#) (with art. 21, Sch. 2)

**F48** S. 28(9B) inserted (1.4.2014) by [Energy Act 2013 \(c. 32\)](#), s. 156(1), [Sch. 12 para. 9\(6\)](#); S.I. 2014/251, art. 4

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- F68** Words inserted by [Consumer Protection Act 1987 \(c. 43, SIF 109:1\)](#), s. 36, **Sch. 3 para. 5**
- F69** S. 28(3)(c)(ii) substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 46(a)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4)–(10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F70** S. 28(3)(f) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(2)**
- F71** Words in s. 28(5) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(3)**
- F72** Words substituted by [Water Act 1989 \(c. 15, SIF 130\)](#), s. 190, **Sch. 25 para. 46(b)** (with ss. 58(7), 101(1), 141(6), 160(1)(2)(4), 163, 189(4), (10), 190, 193(1), Sch. 26 paras. 3(1)(2), 17, 40(4), 57(6), 58)
- F73** S. 28(6) substituted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 para. 52**
- F74** S. 28(9) inserted by [Employment Protection Act 1975 \(c. 71\)](#), **Sch. 15 para. 9**
- F75** S. 28(9A) inserted (1.1.2005) by [The Freedom of Information \(Removal and Relaxation of Statutory Prohibitions on Disclosure of Information\) Order 2004 \(S.I. 2004/3363\)](#), **art. 5(4)**
- F76** S. 28(10) added by [Norfolk and Suffolk Broads Act 1988 \(c. 4, SIF 81:1\)](#), s. 21, **Sch. 6 para. 13**

#### **Modifications etc. (not altering text)**

- C28** Ss. 1-59 applied by S.I. 2001/2127 art. 8A 8B (as inserted (E.W.S.) (6.4.2011) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) \(Variation\) Order 2011 \(S.I. 2011/745\)](#), arts. 1(1), **3(2)**)
- C29** Ss. 25A-28 applied (with modifications) (1.3.2014) by [The Biocidal Products and Chemicals \(Appointment of Authorities and Enforcement\) Regulations 2013 \(S.I. 2013/1506\)](#), regs. 2(4), **19** (with reg. 3(4)(5)31)
- C44** Ss. 1-59, 80-82 applied (11.7.2001) by S.I. 2001/2127, **arts. 4(1), 5(1)(2), 6(1), 7(1), 8(1), 10** (with art. 11) (as amended by S.I. 2009/1750, **art. 2(2)(4)**)
- C48** Ss. 1-59, 80-82 applied (temp.) (5.8.2009) by [The Health and Safety at Work etc. Act 1974 \(Application outside Great Britain\) Order 2001 \(S.I. 2001/2127\)](#), arts. 8A, 8B (as inserted by S.I. 2009/1750, **art. 2(3)**)
- C52** S. 28 applied (with modifications) (16.1.2012) by [The Railways \(Interoperability\) Regulations 2011 \(S.I. 2011/3066\)](#), regs. 1(2), **39(2)(3)(f)** (with reg. 3)
- C53** S. 28(6) extended by S.I. 1985/1884, art. 10, **Sch. 3 para. 4**  
 s. 28 extended (31.1.1994) by S.I. 1993/3050, **art. 18(1)** (with art. 3).
- C67** Ss. 1, 25, 26, 27, 28, 30, 33, 34, 59, 80, 81 and 82 applied by S.I. 1989/840, **arts. 2, 10**
- C68** S. 28 amended by S.I. 1982/1496, **reg. 10(1)**  
 S. 28 extended (5.7.1994) by 1994 c. 19, ss. 39, 66(2)(b), **Sch. 13 para. 20(e)** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**)  
 S. 28 restricted (15.11.2000) by S.I. 2000/2831, **reg. 23(1)**
- C69** S. 28 amended by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 57(7), **Sch. 13 para. 13(f)**
- C70** Ss. 19-28 applied (with modifications) (1.1.1993) by S.I. 1992/3073, reg. 28, **Sch. 6 para. 1(b)**
- C71** Ss. 19-28 modified (6.4.1992) by S.I. 1992/711, **regs. 1(2), 28(3)(b)(5)(a)**
- C72** s. 28 applied (with modifications) (E.W.S.) (22.4.2005) by S.I. 2005/928, **reg. 4(2)-(4)**
- C73** S. 28(7): Disclosure powers extended (14.12.2001) by 2001 c. 24, s. 17, **Sch. 4 Pt. 1 para. 12**

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