



# Water Act 1989

## 1989 CHAPTER 15

### PART VI

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Information etc.*

#### **174 General restrictions on disclosure of information.**

- (1) Subject to the following provisions of this section, no information with respect to any particular business which—
- (a) has been obtained by virtue of any of the provisions of this Act; and
  - (b) relates to the affairs of any individual or to any particular business,
- shall, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.
- (2) Subsection (1) above does not apply to any disclosure of information which is made—
- (a) for the purpose of facilitating the carrying out by the Secretary of State, the Minister, [<sup>F1</sup>the Environment Agency, the Scottish Environment Protection Agency], the Director, the [<sup>F2</sup>Competition Commission] or a local authority of any of his, its or, as the case may be, their functions by virtue of this Act [<sup>F3</sup>or any of the water consolidation Acts][<sup>F4</sup>or the Environment Act 1995];
  - (b) for the purpose of facilitating the performance by a water undertaker or a sewerage undertaker of any of the duties imposed on it by or under this Act [<sup>F3</sup>or any of the water consolidation Acts];
  - [<sup>F5</sup>(c) in pursuance of any duty imposed by section 197(1)(a) or (2) or 203(1) or (2) of the Water Resources Act 1991 or of any arrangements made by the Director under section 29(6) of the Water Industry Act 1991;]
  - (d) for the purpose of facilitating the carrying out by—
    - (i) any Minister of the Crown;
    - [<sup>F6</sup>(ii) the Office of Fair Trading;]

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- (iii) the <sup>F2</sup>Competition Commission];
  - (iv) the Director General of Telecommunications;
  - (v) the Civil Aviation Authority;
  - (vi) the Director General of Gas Supply;
  - (vii) the Director General of Electricity Supply; or
  - (viii) a local weights and measures authority in England and Wales,
- of any of his, its or, as the case may be, their functions under any of the enactments or instruments specified in subsection (3) below;
- <sup>F7</sup>(e) for the purpose of enabling or assisting the Secretary of State, the Treasury or the Financial Services Authority to exercise any powers conferred by or under the Financial Services and Markets Act 2000 or by the enactments relating to companies or insolvency;
  - (ea) for the purpose of enabling or assisting any inspector appointed under enactments relating to companies to carry out his functions;]
  - (f) for the purpose of enabling an official receiver to carry out his functions under the enactments relating to insolvency or for the purpose of enabling or assisting a recognised professional body for the purposes of section 391 of the <sup>M1</sup>Insolvency Act 1986 to carry out its functions as such;
  - (g) for the purpose of facilitating the carrying out by the Health and Safety Commission or the Health and Safety Executive of any of its functions under any enactment or of facilitating the carrying out by any enforcing authority, within the meaning of Part I of the <sup>M2</sup>Health and Safety at Work etc. Act 1974, of any functions under a relevant statutory provision, within the meaning of that Act;
  - (h) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions under any enactment;
  - (i) in connection with the investigation of any criminal offence or for the purposes of any criminal proceedings;
  - (j) for the purposes of any civil proceedings brought under or by virtue of this Act <sup>F8</sup>, any of the water consolidation Acts<sup>F9</sup>, the Environment Act 1995] or any of the enactments or instruments specified in subsection (3) below or of any arbitration under this Act <sup>F10</sup>or any of those Acts]; or
  - (k) in pursuance of a Community obligation.
- (3) The enactments and instruments referred to in subsection (2) above are—
- (a) the <sup>M3</sup>Trade Descriptions Act 1968;
  - (b) the <sup>M4</sup>Fair Trading Act 1973;
  - (c) the <sup>M5</sup>Consumer Credit Act 1974;
  - <sup>F11</sup>(d) .....
  - <sup>F11</sup>(e) .....
  - (f) the <sup>M6</sup>Estate Agents Act 1979;
  - (g) the <sup>M7</sup>Competition Act 1980;
  - (h) the <sup>M8</sup>Telecommunications Act 1984;
  - (i) the <sup>M9</sup>Airports Act 1986;
  - (j) the <sup>M10</sup>Gas Act 1986;
  - (k) the <sup>M11</sup>Consumer Protection Act 1987;
  - (l) the Electricity Act 1989;
  - <sup>F12</sup>(ll) the Competition Act 1998]

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- [<sup>F13</sup>(1m) Part I of the Transport Act 2000.]  
[<sup>F14</sup>(1n) the Enterprise Act 2002;]  
(m) any subordinate legislation made for the purpose of securing compliance with the Directive of the Council of the European Communities dated 10th September 1984 (No.84/450/EEC) on the approximation of the laws, regulations and administrative provisions of the member States concerning misleading advertising.
- (4) Nothing in subsection (1) above shall be construed—  
(a) as limiting the matters which may be published under [<sup>F15</sup>section 201 of the Water Industry Act 1991] or may be included in, or made public as part of, a report of [<sup>F16</sup>the Environment Agency, the Scottish Environment Protection Agency], the Director, a customer service committee or the [<sup>F2</sup>Competition Commission] under any provision of [<sup>F15</sup>the water consolidation Acts][<sup>F17</sup>or the Environment Act 1995]; or  
(b) as applying to any information which has been so published or has been made public as part of such a report or to any information exclusively of a statistical nature.
- (5) Any person who discloses any information in contravention of this section shall be guilty of an offence and liable—  
(a) on summary conviction, to a fine not exceeding the statutory maximum;  
(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (6) Subject to subsection (7) below, nothing in this section shall preclude the disclosure of information—  
(a) if the disclosure is of information relating to a matter connected with the carrying out of the functions of a water undertaker or sewerage undertaker and is made by one Minister of the Crown or Government department to another; or  
(b) if the disclosure is for the purpose of enabling or assisting any public or other authority for the time being designated for the purposes of this section by an order made by the Secretary of State to discharge any functions which are specified in the order.
- (7) The power to make an order under subsection (6) above shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and where such an order designates an authority for the purposes of paragraph (b) of that subsection, the order may—  
(a) impose conditions subject to which the disclosure of information is permitted by virtue of that paragraph; and  
(b) otherwise restrict the circumstances in which disclosure is so permitted.
- [<sup>F18</sup>(8) in this section “the water consolidation Acts” means the Water Resources Act 1991, the Water Industry Act 1991, the Statutory Water Companies Act 1991, the Land Drainage Act 1991 and the Water Consolidation (Consequential Provisions) Act 1991.]

#### Textual Amendments

- F1** Words in s. 174(2)(a) substituted (1.4.1996) by [S.I. 1996/593, reg. 3, Sch. 2 para. 3\(2\)\(a\)](#)  
**F2** Words in s. 174(2)(a)(d)(iii)(4)(a) substituted (1.4.1999) by [S.I. 1999/506, art. 25](#)

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- F3** Words inserted by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 2, **Sch. 1 para. 50(2)(a)**
- F4** Words in s. 174(2)(a) added (1.4.1996) by S.I. 1996/593, reg. 3, **Sch. 2 para. 3(2)(b)**
- F5** S. 174(2)(c) substituted by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 2, **Sch. 1 para. 50(2)(b)**
- F6** S. 174(2)(d)(ii) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 19(2)(a)**; S.I. 2003/766, art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), **Sch.**)
- F7** S. 174(2)(e)(ea) substituted (1.12.2001) for s. 174(2)(e) by S.I. 2001/3649, **arts. 1, 316**
- F8** Words inserted by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 2, **Sch. 1 para. 50(2)(c)**
- F9** Words in s. 174(2)(j) inserted (1.4.1996) by S.I. 1996/593, reg. 3, **Sch. 2 para. 3(3)**
- F10** Words inserted by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 2, **Sch. 1 para. 50(2)(c)**
- F11** S. 174(3)(d)(e) repealed (1.3.2000) by 1998 c. 41, s. 66(5), Sch. 10 Pt. IV para. 11(a), **Sch. 14 Pt. 1** (with s. 73); S.I. 2000/344, art. 2, **Sch.**
- F12** S. 174(3)(ll) inserted (11.1.1999) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. IV para. 11(b)** (with s. 73); S.I. 1998/3166, art. 2, **Sch.**
- F13** S. 174(3)(lm) inserted (21.12.2001) by S.I. 2001/4050, art. 2, **Sch. Pt. IV para. 20**
- F14** S. 174(3)(ln) inserted (1.4.2003) by Enterprise Act 2002 (c. 40), s. 279, **Sch. 25 para. 19(2)(b)**; S.I. 2003/766, art. 2, **Sch.** (with art. 3) (as amended (20.7.2007) by S.I. 2007/1846, reg. 3(2), **Sch.**)
- F15** Words substituted by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 2, **Sch. 1 para. 50(2)(d)**
- F16** Words in s. 174(4)(a) substituted (1.4.1996) by S.I. 1996/593, reg. 3, **Sch. 2 para. 3(4)(a)**
- F17** Words in s. 174(4)(a) added (1.4.1996) by S.I. 1996/593, reg. 3, **Sch. 2 para. 3(4)(b)**
- F18** S. 174(8) inserted by Water Consolidation (Consequential Provisions) Act 1991 (c. 60, SIF 130), s. 2, **Sch. 1 para. 50(2)(e)**

#### Marginal Citations

- M1** 1986 c. 45.  
**M2** 1974 c. 37.  
**M3** 1968 c. 29.  
**M4** 1973 c. 41.  
**M5** 1974 c. 39.  
**M6** 1979 c. 38.  
**M7** 1980 c. 21.  
**M8** 1984 c. 12.  
**M9** 1986 c. 31.  
**M10** 1986 c. 44.  
**M11** 1987 c. 43.

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