



# Water Industry Act 1991

## 1991 CHAPTER 56

### PART VII

#### INFORMATION PROVISIONS

##### *Restriction on disclosure of information*

#### **206 Restriction 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) No person shall disclose any information furnished to him under section <sup>F1</sup>. . . 204 above or under Chapter III of Part IV of this Act except—
  - (a) with the consent of the person by whom the information was furnished;
  - (b) in connection with the execution of that Chapter;
  - (c) for the purposes of any proceedings arising under that Chapter (including any appeal, application to the Secretary of State or the Director or an arbitration);
  - (d) for the purposes of any criminal proceedings (whether or not so arising); or
  - (e) for the purposes of any report of any proceedings falling within paragraph (c) or (d) above.
- (3) 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>F2</sup>the Environment Agency, the Scottish Environment Protection Agency], the Director [<sup>F3</sup>, the Council], the [<sup>F4</sup>Competition Commission] or a county council or local authority of any of his, its or, as the case may be, their functions by virtue of this Act, any of the other consolidation Acts [<sup>F5</sup>, <sup>M1</sup>the

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- Water Act 1989, Part I or IIA of the Environmental Protection Act 1990 <sup>[F6]</sup>, the <sup>M2</sup>Environment Act 1995<sup>[F7]</sup>, regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003<sup>]]</sup>;
- (b) for the purpose of facilitating the performance by a relevant undertaker of any of the duties imposed on it by or under this Act, any of the other consolidation Acts <sup>[F8]</sup>, the Water Act 1989 or the Water Act 2003<sup>[F9]</sup> or by a licensed water supplier of any of the duties imposed on it by or under this Act<sup>]</sup> ;
- (c) in pursuance <sup>[F10]</sup> of any duty imposed by section 27H above or<sup>]</sup> section 197(1) (a) or (2) or <sup>[F11]</sup>203(1), (1A), (2) or (2A)<sup>]]</sup> of the <sup>M3</sup>Water Resources Act 1991 (information about water flow and pollution);
- (d) for the purpose of facilitating the carrying out by any person mentioned in Part I of Schedule 15 to this Act of any of his functions under any of the enactments or instruments specified in Part II of that Schedule;
- <sup>[F12]</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<sup>]</sup>;
- (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>M4</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>M5</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, any of the other consolidation Acts, <sup>[F13]</sup>, the Water Act 2003<sup>]</sup> or any of the enactments or instruments specified in Part II of Schedule 15 to this Act, or of any arbitration under this Act, any of the other consolidation Acts <sup>[F14]</sup>, the Water Act 1989 or the Water Act 2003<sup>]</sup> ; or
- (k) in pursuance of a Community obligation.
- (4) Nothing in subsection (1) above shall be construed—
- (a) as limiting the matters which may be published under section <sup>[F15]</sup>38A, 95A or<sup>]</sup> 201 above 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<sup>]</sup>, the Director, <sup>[F17]</sup>the Council (or any regional committee)<sup>]]</sup> or the <sup>[F18]</sup>Competition Commission<sup>]</sup>under any provision of this Act <sup>[F19]</sup>, Part I or IIA of <sup>M6</sup>the Environmental Protection Act 1990, the <sup>M7</sup>Water Resources Act 1991<sup>[F6]</sup>, the <sup>M8</sup>Environment Act 1995 <sup>[F20]</sup>, regulations under section 2 of the Pollution Prevention and Control Act 1999, or the Water Act 2003<sup>]]</sup>; or

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- (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) Subject to subsection (6) below, nothing in subsection (1) above 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 relevant undertaker [<sup>F21</sup>, or with the carrying on by a licensed water supplier of activities under its licence,] 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.
- (6) The power to make an order under subsection (5) 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.
- (7) Any person who discloses any information in contravention of the preceding provisions of this section shall be guilty of an offence.
- (8) A person who is guilty of an offence under this section by virtue of subsection (1) above shall be 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.
- (9) A person who is guilty of an offence under this section by virtue of subsection (2) above shall be liable, on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 3 on the standard scale or to both.
- [<sup>F22</sup>(9A) Information obtained by the Director in the exercise of functions which are exercisable concurrently with [<sup>F23</sup>the OFT] under Part I of the Competition Act 1998 is subject to [<sup>F24</sup>Part 9 of the Enterprise Act 2002 (Information)] and not to subsections (1) to (9) of this section.]
- (10) In this section “the other consolidation Acts” means the <sup>M9</sup>Water Resources Act 1991, the <sup>M10</sup>Statutory Water Companies Act 1991, the <sup>M11</sup>Land Drainage Act 1991 and the <sup>M12</sup>Water Consolidation (Consequential Provisions) Act 1991.

#### Textual Amendments

- F1** Words in s. 206(2) repealed (1.4.1996) by 1995 c. 25, s. 120(1)(3), Sch. 22 para. 121(1), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F2** Words in s. 206(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), Sch. 22 para. 121(2)(a) (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3
- F3** Words in s. 206(3)(a) inserted (1.10.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), Sch. 7 para. 27(5)(a)(i); S.I. 2005/2714, art. 2(I)(v)(bb) (with Sch. 2 para. 8)

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- F4** Words in s. 206(3)(a)(4)(a) substituted (1.4.1999) by S.I. 1999/506, **art. 30(b)**
- F5** Words in s. 206(3)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(2)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F6** Words in s. 206(3)(a)(4)(a) substituted (21.3.2000) by 1999 c. 24, s. 6, **Sch. 2 para. 7**; S.I. 2000/800, **art. 2**
- F7** Words in s. 206(3)(a) substituted (1.4.2004) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(a)(ii)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F8** Words in s. 206(3)(b) substituted (1.4.2004) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(a)(iii)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F9** Words in s. 206(3)(b) inserted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 47(2)**; S.I. 2005/2714, **art. 3** (with Sch. 2 para. 8)
- F10** Words in s. 206(3)(c) substituted (1.10.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(a)(iv)**; S.I. 2005/2714, **art. 2(l)(v)(bb)** (with Sch. 2 para. 8)
- F11** Words in s. 206(3)(c) substituted (1.12.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 47(3)**; S.I. 2005/2714, **art. 3** (with Sch. 2 para. 8)
- F12** S. 206(3)(e)(ea) substituted (1.12.2001) for s. 206(3)(e) by S.I. 2001/3649, **arts. 1, 328**
- F13** Words in s. 206(3)(j) substituted (1.4.2004) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(a)(v)(a)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F14** Words in s. 206(3)(j) substituted (1.4.2004) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(a)(v)(b)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F15** Words in s. 206(4)(a) inserted (1.7.1992) by Competition and Service (Utilities) Act 1992 (c. 43), s. 56(6), **Sch. 1 para. 27**; Competition and Service (Utilities) Act 1992 (Commencement No. 1) Order 1992, art. 3, Sch. Pt. I
- F16** Words in s. 206(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(3)(a)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F17** Words in s. 206(4)(a) substituted (1.10.2005) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(b)(i)**; S.I. 2005/2714, **art. 2(l)(v)(bb)** (with Sch. 2 para. 8)
- F18** Words in s. 206(3)(a)(4)(a) substituted (1.4.1999) by S.I. 1999/506, **art. 30(b)**
- F19** Words in s. 206(4)(a) substituted (1.4.1996) by 1995 c. 25, s. 120(1), **Sch. 22 para. 121(3)(b)** (with ss. 7(6), 115, 117); S.I. 1996/186, **art. 3**
- F20** Words in s. 206(4)(a) substituted (1.4.2004) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 7 para. 27(5)(b)(ii)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F21** Words in s. 206(5)(a) inserted (1.4.2004) by Water Act 2003 (c. 37), ss. 101(1), 105(3), **Sch. 8 para. 47(4)**; S.I. 2004/641, **art. 3(y)**, Sch. 2 (with art. 6, Sch. 3)
- F22** S. 206(9A) inserted (1.3.2000) by 1998 c. 41, s. 66(5), **Sch. 10 Pt. IV para. 13(9)** (with s. 73); S.I. 2000/344, art. 2, **Sch.**
- F23** Words in s. 206(9A) substituted (1.4.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(10)(a)**; S.I. 2003/766, **art. 2**, Sch. (with art. 3)
- F24** Words in s. 206(9A) substituted (20.6.2003) by Enterprise Act 2002 (c. 40), ss. 278, 279, **Sch. 25 para. 25(10)(b)**; S.I. 2003/1397, **art. 2(1)**, Sch.

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

- C1** S. 206 restricted (31.10.2003) by Railways and Transport Safety Act 2003 (c. 20), **ss. 115, 120**; S.I. 2003/2681, **art. 2**
- C2** S. 206 extended (1.12.1991) by Statutory Water Companies Act 1991 (c. 58, SIF 130), **ss. 16, 17(2)**.
- C3** S. 206(3): disclosure powers extended (14.12.2001) by 2001 c. 24, ss. 17, 127(2)(a), **Sch. 4 Pt. I para. 31**

#### Marginal Citations

- M1** 1989 c. 15.  
**M2** 1995 c. 25.  
**M3** 1991 c. 57.  
**M4** 1986 c. 45.

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| <b>M5</b>  | 1974 c. 37. |
| <b>M6</b>  | 1990 c. 43. |
| <b>M7</b>  | 1991 c. 57. |
| <b>M8</b>  | 1995 c. 25. |
| <b>M9</b>  | 1991 c. 57. |
| <b>M10</b> | 1991 c. 58. |
| <b>M11</b> | 1991 c. 59. |
| <b>M12</b> | 1991 c. 60. |

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