



Coal industry Act 1994

1994 CHAPTER 21

PART IV

GENERAL AND SUPPLEMENTAL

Information provisions

59 Information to be kept confidential by the Authority

- (1) Subject to the following provisions of this section, it shall be the duty of the Authority to establish and maintain such arrangements as it considers best calculated to secure that information which—
- (a) is in the Authority's possession in consequence of either the carrying out of any of its functions or the transfer to the Authority, in accordance with a restructuring scheme, of any records, and
 - (b) relates to the affairs of any individual or to any particular business,
- is not, during the lifetime of that individual or so long as that business continues to be carried on, disclosed to any person without the consent of that individual or, as the case may be, of the person for the time being carrying on that business.
- (2) Nothing in subsection (1) above shall authorise or require the making of arrangements which prevent the disclosure of information—
- (a) for the purpose of facilitating the carrying out by the Secretary of State, the Treasury or the Authority of any of his, their or, as the case may be, its functions under this Act;
 - (b) in pursuance of arrangements made under section 57 above;
 - (c) for the purpose of facilitating the carrying out by any relevant authority of any of the functions in relation to which it is such an authority;
 - (d) in connection with the investigation of any criminal offence or for the purposes of criminal proceedings;
 - (e) for the purposes of any civil proceedings brought under this Act or any relevant enactment, of any proceedings before the Lands Tribunal or the Lands

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Tribunal for Scotland under the 1991 Act or of any arbitration for which provision is made by regulations under section 47(2) above; or

(f) in pursuance of any Community obligation.

(3) For the purposes of this section—

- (a) every Minister of the Crown and local weights and measures authority in Great Britain is a relevant authority in relation to his or, as the case may be, their functions under any relevant enactment;
- (b) the Secretary of State and the Treasury are relevant authorities in relation to their functions under the Financial Services Act 1986 and the enactments relating to companies, insurance companies and insolvency;
- (c) an inspector appointed under the enactments relating to companies, an official receiver and any recognised professional body for the purposes of section 391 of the Insolvency Act 1986 are relevant authorities in relation to their functions as such;
- (d) every enforcing authority, within the meaning of Part I of the Health and Safety at Work etc. Act 1974, is a relevant authority in relation to its functions under any relevant statutory provision, within the meaning of that Act; and
- (e) the following are relevant authorities in relation to all of their functions, that is to say—
 - (i) the Comptroller and Auditor General;
 - (ii) the Health and Safety Executive and the Health and Safety Commission;
 - (iii) the National Rivers Authority;
 - (iv) the Monopolies Commission;
 - (v) the Director General of Fair Trading and the Director General of Electricity Supply;
 - (vi) the river purification authorities referred to in the Rivers (Prevention of Pollution) (Scotland) Act 1951 and for the time being specified in subsection (2) of section 17 of that Act.

(4) In subsections (2) and (3) above “relevant enactment” means any of the following, that is to say—

- (a) the Trade Descriptions Act 1968;
- (b) the Fair Trading Act 1973;
- (c) the Consumer Credit Act 1974;
- (d) Part II of the Control of Pollution Act 1974;
- (e) the Restrictive Trade Practices Act 1976;
- (f) the Resale Prices Act 1976;
- (g) the Estate Agents Act 1979;
- (h) the Competition Act 1980;
- (i) the Consumer Protection Act 1987;
- (j) the Electricity Act 1989;
- (k) the Water Resources Act 1991;
- (l) the Land Drainage Act 1991;
- (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.

- (5) Nothing in any arrangements under this section shall—
- (a) limit the matters which may be contained in a report under section 60 below or section 49 of the 1991 Act (report on operation of that Act); or
 - (b) restrict or prohibit the disclosure of any information which has already been made public—
 - (i) as part of such a report;
 - (ii) in pursuance of any arrangements under section 57 above;
 - (iii) under any provision of section 31 or 32 above or Part III of this Act requiring the publication of any notice or other matter; or
 - (iv) in the exercise of any power or the performance of any duty which is conferred or imposed on any person apart from this Act.
- (6) The Secretary of State may by order made by statutory instrument modify subsections (2) to (5) above so as to add to or restrict the descriptions of disclosures which are to be excluded from any prohibition contained in arrangements under subsection (1) above; and the power to make an order under this subsection shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Subject to subsection (8) below, where any licence under Part II of this Act or any such undertaking as is mentioned in section 57(4)(b) above contains provision for any information furnished to the Authority to be treated as subject to such an obligation of confidence as restricts the disclosure or use of that information without the consent of the person to whom that obligation is to be owed—
- (a) the requirement to comply with that obligation shall be a duty owed by the Authority to that person; and
 - (b) any such disclosure or use, in contravention of that provision, of any information as causes the person to whom it is owed to sustain loss or damage shall be actionable against the Authority at the suit or instance of that person.
- (8) Subsection (7) above shall not apply, except in so far as the provisions of the licence or undertaking contain express provision to the contrary, to any disclosure of information which is for the time being excluded by virtue of subsections (2) to (5) above from the prohibition contained in arrangements under subsection (1) above.
- (9) In this section “records” has the same meaning as in section 57 above.