



Competition Act 1998

1998 CHAPTER 41

PART I

COMPETITION

CHAPTER V

MISCELLANEOUS

Confidentiality and immunity from defamation

55 General restrictions on disclosure of information

- (1) No information which—
- (a) has been obtained under or as a result of any provision of this Part, and
 - (b) relates to the affairs of any individual or to any particular business of an undertaking,
- is to be disclosed during the lifetime of that individual or while that business continues to be carried on, unless the condition mentioned in subsection (2) is satisfied.
- (2) The condition is that consent to the disclosure has been obtained from—
- (a) the person from whom the information was initially obtained under or as a result of any provision of this Part (if the identity of that person is known); and
 - (b) if different—
 - (i) the individual to whose affairs the information relates, or
 - (ii) the person for the time being carrying on the business to which the information relates.
- (3) Subsection (1) does not apply to a disclosure of information—
- (a) made for the purpose of—
 - (i) facilitating the performance of any relevant functions of a designated person;

Status: This is the original version (as it was originally enacted).

- (ii) facilitating the performance of any functions of the Commission in respect of Community law about competition;
 - (iii) facilitating the performance by the Comptroller and Auditor General of any of his functions;
 - (iv) criminal proceedings in any part of the United Kingdom;
 - (b) made with a view to the institution of, or otherwise for the purposes of, civil proceedings brought under or in connection with this Part;
 - (c) made in connection with the investigation of any criminal offence triable in the United Kingdom or in any part of the United Kingdom; or
 - (d) which is required to meet a Community obligation.
- (4) In subsection (3) “relevant functions” and “designated person” have the meaning given in Schedule 11.
- (5) Subsection (1) also does not apply to a disclosure of information made for the purpose of facilitating the performance of specified functions of any specified person.
- (6) In subsection (5) “specified” means specified in an order made by the Secretary of State.
- (7) If information is disclosed to the public in circumstances in which the disclosure does not contravene subsection (1), that subsection does not prevent its further disclosure by any person.
- (8) A person who contravenes this section is guilty of an offence and liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

56 Director and Secretary of State to have regard to certain matters in relation to the disclosure of information

- (1) This section applies if the Secretary of State or the Director is considering whether to disclose any information acquired by him under, or as a result of, any provision of this Part.
- (2) He must have regard to the need for excluding, so far as is practicable, information the disclosure of which would in his opinion be contrary to the public interest.
- (3) He must also have regard to—
- (a) the need for excluding, so far as is practicable—
 - (i) commercial information the disclosure of which would, or might, in his opinion, significantly harm the legitimate business interests of the undertaking to which it relates, or
 - (ii) information relating to the private affairs of an individual the disclosure of which would, or might, in his opinion, significantly harm his interests; and
 - (b) the extent to which the disclosure is necessary for the purposes for which the Secretary of State or the Director is proposing to make the disclosure.

57 Defamation

For the purposes of the law relating to defamation, absolute privilege attaches to any advice, guidance, notice or direction given, or decision made, by the Director in the exercise of any of his functions under this Part.