



Financial Services and Markets Act 2000

2000 CHAPTER 8

PART XXIII

PUBLIC RECORD, DISCLOSURE OF INFORMATION AND CO-OPERATION

Disclosure of information

348 Restrictions on disclosure of confidential information by Authority etc.

- (1) Confidential information must not be disclosed by a primary recipient, or by any person obtaining the information directly or indirectly from a primary recipient, without the consent of—
 - (a) the person from whom the primary recipient obtained the information; and
 - (b) if different, the person to whom it relates.
- (2) In this Part “confidential information” means information which—
 - (a) relates to the business or other affairs of any person;
 - (b) was received by the primary recipient for the purposes of, or in the discharge of, any functions of the Authority, the competent authority for the purposes of Part VI or the Secretary of State under any provision made by or under this Act; and
 - (c) is not prevented from being confidential information by subsection (4).
- (3) It is immaterial for the purposes of subsection (2) whether or not the information was received—
 - (a) by virtue of a requirement to provide it imposed by or under this Act;
 - (b) for other purposes as well as purposes mentioned in that subsection.
- (4) Information is not confidential information if—
 - (a) it has been made available to the public by virtue of being disclosed in any circumstances in which, or for any purposes for which, disclosure is not precluded by this section; or

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- (b) it is in the form of a summary or collection of information so framed that it is not possible to ascertain from it information relating to any particular person.
- (5) Each of the following is a primary recipient for the purposes of this Part—
- (a) the Authority;
 - (b) any person exercising functions conferred by Part VI on the competent authority;
 - (c) the Secretary of State;
 - (d) a person appointed to make a report under section 166;
 - (e) any person who is or has been employed by a person mentioned in paragraphs (a) to (c);
 - (f) any auditor or expert instructed by a person mentioned in those paragraphs.
- (6) In subsection (5)(f) “expert” includes—
- (a) a competent person appointed by the competent authority under section 97;
 - (b) a competent person appointed by the Authority or the Secretary of State to conduct an investigation under Part XI;
 - (c) any body or person appointed under paragraph 6 of Schedule 1 to perform a function on behalf of the Authority.

Modifications etc. (not altering text)

- C1** S. 348 extended (1.12.2001) by [S.I. 2001/3648](#), [arts. 1, 3\(2\), 4, 5\(2\), 7\(2\)](#)
S. 348 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, [s. 53A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8, 13\(1\)](#), [Sch. 3 Pt. II para. 152](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
S. 348 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, [s. 63A\(1\)](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8, 13\(1\)](#), [Sch. 3 Pt. I para. 78](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- C2** S. 348 applied (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), [regs. 16\(2\), 50\(3\)](#) (with reg. 3)
- C3** S. 348 modified (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), [reg. 50\(4\)](#) (with reg. 3)
- C4** S. 348 applied (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004](#) (S.I. 2004/353), [reg. 16\(2\)\(3\)](#) (with reg. 3)
- C5** S. 348 applied (with modifications) (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004](#) (S.I. 2004/353), [reg. 50\(3\)-\(6\)](#) (with reg. 3)
- C6** S. 348 applied (with modifications) (5.5.2004) by [The Credit Institutions \(Reorganisation and Winding up\) Regulations 2004](#) (S.I. 2004/1045), [regs. 18, 38](#)
- C7** S. 348 excluded (20.5.2006) by [The Takeovers Directive \(Interim Implementation\) Regulations 2006](#) (S.I. 2006/1183), [reg. 18\(1\)](#)
- C8** S. 348 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008](#) (S.I. 2008/346), [reg. 43](#)
- C9** S. 348 applied (with modifications) (2.3.2009) by [The Payment Services Regulations 2009](#) (S.I. 2009/209), [regs. 1\(2\)\(a\), 95](#), [Sch. 5 para. 5](#) (with reg. 3) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013](#) (S.I. 2013/472), [Sch. 2 para. 155\(6\)\(e\)](#) (with Sch. 2 para. 156))
- C10** S. 348 applied (with modifications) (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010](#) (S.I. 2010/89), [reg. 19](#), [Sch. para. 4](#)
- C11** S. 348(1) restricted (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003](#) (S.I. 2003/1102), [regs. 16\(3\), 50\(5\)](#) (with reg. 3)

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349 Exceptions from section 348.

- (1) Section 348 does not prevent a disclosure of confidential information which is—
 - (a) made for the purpose of facilitating the carrying out of a public function; and
 - (b) permitted by regulations made by the Treasury under this section.
- (2) The regulations may, in particular, make provision permitting the disclosure of confidential information or of confidential information of a prescribed kind—
 - (a) by prescribed recipients, or recipients of a prescribed description, to any person for the purpose of enabling or assisting the recipient to discharge prescribed public functions;
 - (b) by prescribed recipients, or recipients of a prescribed description, to prescribed persons, or persons of prescribed descriptions, for the purpose of enabling or assisting those persons to discharge prescribed public functions;
 - (c) by the Authority to the Treasury or the Secretary of State for any purpose;
 - (d) by any recipient if the disclosure is with a view to or in connection with prescribed proceedings.
- (3) The regulations may also include provision—
 - (a) making any permission to disclose confidential information subject to conditions (which may relate to the obtaining of consents or any other matter);
 - (b) restricting the uses to which confidential information disclosed under the regulations may be put.
- (4) In relation to confidential information, each of the following is a “recipient”—
 - (a) a primary recipient;
 - (b) a person obtaining the information directly or indirectly from a primary recipient.
- (5) “Public functions” includes—
 - (a) functions conferred by or in accordance with any provision contained in any enactment or subordinate legislation;
 - (b) functions conferred by or in accordance with any provision contained in the Community Treaties or any Community instrument;
 - (c) similar functions conferred on persons by or under provisions having effect as part of the law of a country or territory outside the United Kingdom;
 - (d) functions exercisable in relation to prescribed disciplinary proceedings.
- (6) “Enactment” includes—
 - (a) an Act of the Scottish Parliament;
 - (b) Northern Ireland legislation.
- (7) “Subordinate legislation” has the meaning given in the ^{M1}Interpretation Act 1978 and also includes an instrument made under an Act of the Scottish Parliament or under Northern Ireland legislation.

Modifications etc. (not altering text)

- C12** S. 349 extended (1.12.2001) by *S.I. 2001/3648, arts. 1, 3(2), 4, 5(2), 7(2)*
S. 349 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by *S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152; S.I. 2001/3538, art. 2(1)*

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S. 349 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40 (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), **Sch. 3 Pt. I para. 78**; S.I. 2001/3538, **art. 2(1)**)

C13 S. 349 applied (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **regs. 16(2), 50(3)** (with reg. 3)

C14 S. 349 modified (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), **reg. 50(4)** (with reg. 3)

C15 S. 349 applied (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 16(2)(3)** (with reg. 3)

C16 S. 349 applied (with modifications) (18.2.2004) by The Insurers (Reorganisation and Winding Up) Regulations 2004 (S.I. 2004/353), **reg. 50(3)-(6)** (with reg. 3)

C17 S. 349 applied (with modifications) (5.5.2004) by The Credit Institutions (Reorganisation and Winding up) Regulations 2004 (S.I. 2004/1045), **regs. 18, 38**

Commencement Information

II S. 349 wholly in force at 18.6.2001; s. 349 not in force at Royal Assent see s. 431(2); s. 349 in force for certain purposes at 25.2.2001 by S.I. 2001/516, **art. 2(b), Sch. Pt. 2**; s. 349 in force in so far as not already in force at 18.6.2001 by S.I. 2001/1820, **art. 2, Sch.**

Marginal Citations

M1 1978 c. 30.

350 Disclosure of information by the Inland Revenue.

- (1) No obligation as to secrecy imposed by statute or otherwise prevents the disclosure of Revenue information to—
 - (a) the Authority, or
 - (b) the Secretary of State,
 if the disclosure is made for the purpose of assisting in the investigation of a matter under section 168 or with a view to the appointment of an investigator under that section.
- (2) A disclosure may only be made under subsection (1) by or under the authority of the Commissioners of Inland Revenue.
- (3) Section 348 does not apply to Revenue information.
- (4) Information obtained as a result of subsection (1) may not be used except—
 - (a) for the purpose of deciding whether to appoint an investigator under section 168;
 - (b) in the conduct of an investigation under section 168;
 - (c) in criminal proceedings brought against a person under this Act or the ^{M2}Criminal Justice Act 1993 as a result of an investigation under section 168;
 - (d) for the purpose of taking action under this Act against a person as a result of an investigation under section 168;
 - (e) in proceedings before the Tribunal as a result of action taken as mentioned in paragraph (d).
- (5) Information obtained as a result of subsection (1) may not be disclosed except—
 - (a) by or under the authority of the Commissioners of Inland Revenue;
 - (b) in proceedings mentioned in subsection (4)(c) or (e) or with a view to their institution.

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- (6) Subsection (5) does not prevent the disclosure of information obtained as a result of subsection (1) to a person to whom it could have been disclosed under subsection (1).
- (7) “Revenue information” means information held by a person which it would be an offence under section 182 of the ^{M3}Finance Act 1989 for him to disclose.

Modifications etc. (not altering text)

- C18** S. 350 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152); S.I. 2001/3538, art. 2(1)
- S. 350 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78); S.I. 2001/3538, art. 2(1)
- C19** S. 350 restricted (7.4.2005) by Commissioners for Revenue and Customs Act 2005 (c. 11), ss. 17(6), 53(1), Sch. 2 Pt. 2 para. 18 (with s. 22); S.I. 2005/1126, art. 2(1)

Commencement Information

- I2** S. 350 wholly in force 3.9.2001; s. 350 not in force at Royal Assent see s. 431(2); s. 350(3)(7) in force at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.; s. 350 in force in so far as not already in force at 3.9.2001 by S.I. 2001/2632, art. 2(2), Sch. Pt. 2

Marginal Citations

- M2** 1993 c. 36.
M3 1989 c. 26.

351 Competition information.

- (1) A person is guilty of an offence if he has competition information (whether or not it was obtained by him) and improperly discloses it—
- if it relates to the affairs of an individual, during that individual’s lifetime;
 - if it relates to any particular business of a body, while that business continues to be carried on.
- (2) For the purposes of subsection (1) a disclosure is improper unless it is made—
- with the consent of the person from whom it was obtained and, if different—
 - the individual to whose affairs the information relates, or
 - the person for the time being carrying on the business to which the information relates;
 - to facilitate the performance by a person mentioned in the first column of the table set out in Part I of Schedule 19 of a function mentioned in the second column of that table;
 - in pursuance of a Community obligation;
 - for the purpose of criminal proceedings in any part of the United Kingdom;
 - in connection with the investigation of any criminal offence triable in the United Kingdom or any part of the United Kingdom;
 - with a view to the institution of, or otherwise for the purposes of, civil proceedings brought under or in connection with—
 - a competition provision; or
 - a specified enactment.

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- (3) A person guilty of an offence under this section is 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.
- (4) Section 348 does not apply to competition information.
- (5) “Competition information” means information which—
- (a) relates to the affairs of a particular individual or body;
 - (b) is not otherwise in the public domain; and
 - (c) was obtained under or by virtue of a competition provision.
- (6) “Competition provision” means any provision of—
- (a) an order made under section 95;
 - (b) Chapter III of Part X; or
 - (c) Chapter II of Part XVIII.
- (7) “Specified enactment” means an enactment specified in Part II of Schedule 19.

Modifications etc. (not altering text)

- C20** S. 351 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152); S.I. 2001/3538, art. 2(1)
- S. 351 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78); S.I. 2001/3538, art. 2(1)

Commencement Information

- I3** S. 351 wholly in force at 18.6.2001; s. 351 not in force at Royal Assent see s. 431(2); s. 351(7) in force at 25.2.2001 by S.I. 2001/516, art. 2(a), Sch. Pt. 1; s. 351 in force in so far as not already in force at 18.6.2001 by S.I. 2001/1820, art. 2, Sch.

VALID FROM 01/07/2011

^{F1}_{F1} 351A Disclosure under the UCITS directive

- (1) This section applies in relation to a disclosure made by a person who falls within subsection (2) for the purpose of compliance with requirements set out in rules made by the Authority to implement Chapter VIII of the UCITS directive.
- (2) The following persons fall within this subsection—
- (a) the auditor of an authorised unit trust scheme that is a master UCITS;
 - (b) the trustee of an authorised unit trust scheme that is a master UCITS;
 - (c) the auditor of an authorised unit trust scheme that is a feeder UCITS;
 - (d) the trustee of an authorised unit trust scheme that is a feeder UCITS; or
 - (e) a person acting on behalf of a person within paragraph (a), (b), (c) or (d) above.

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- (3) A disclosure to which this section applies is not to be taken as a contravention of any duty to which the person making the disclosure is subject.
- (4) In this section, “authorised unit trust scheme”, “master UCITS” and “feeder UCITS” have the meaning given in section 237.]]

Textual Amendments

- F1** S. 351A inserted (1.7.2011) by The Undertakings for Collective Investment in Transferable Securities Regulations 2011 (S.I. 2011/1613), reg. 2(28)

352 Offences.

- (1) A person who discloses information in contravention of section 348 or 350(5) is guilty of an offence.
- (2) A person guilty of an offence under subsection (1) is liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding three months or a fine not exceeding the statutory maximum, or both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine, or both.
- (3) A person is guilty of an offence if, in contravention of any provision of regulations made under section 349, he uses information which has been disclosed to him in accordance with the regulations.
- (4) A person is guilty of an offence if, in contravention of subsection (4) of section 350, he uses information which has been disclosed to him in accordance with that section.
- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 5 on the standard scale, or both.
- (6) In proceedings for an offence under this section it is a defence for the accused to prove—
 - (a) that he did not know and had no reason to suspect that the information was confidential information or that it had been disclosed in accordance with section 350;
 - (b) that he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

Modifications etc. (not altering text)

- C21** S. 352 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1986 c. 53, s. 53A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. II para. 152); S.I. 2001/3538, art. 2(1)
S. 352 modified (17.8.2001 for certain purposes otherwise 1.12.2001) by 1992 c. 40, s. 63A (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by S.I. 2001/2617, arts. 2, 8, 13(1), Sch. 3 Pt. I para. 78; S.I. 2001/3538, art. 2(1)
S. 352 extended (1.12.2001) by S.I. 2001/3648, arts. 1, 3(2)
- C22** S. 352 applied (20.4.2003) by The Insurers (Reorganisation and Winding Up) Regulations 2003 (S.I. 2003/1102), regs. 16(2), 50(3) (with reg. 3)

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- C23** S. 352 modified (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), [reg. 50\(4\)](#) (with [reg. 3](#))
- C24** S. 352 applied (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), [reg. 16\(2\)\(3\)](#) (with [reg. 3](#))
- C25** S. 352 applied (with modifications) (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), [reg. 50\(3\)-\(6\)](#) (with [reg. 3](#))
- C26** S. 352 applied (with modifications) (5.5.2004) by [The Credit Institutions \(Reorganisation and Winding up\) Regulations 2004 \(S.I. 2004/1045\)](#), [regs. 18, 38](#)
- C27** S. 352 applied (6.3.2008) by [The Regulated Covered Bonds Regulations 2008 \(S.I. 2008/346\)](#), [reg. 43](#)
- C28** S. 352 applied (2.3.2009) by [The Payment Services Regulations 2009 \(S.I. 2009/209\)](#), [regs. 1\(2\)\(a\), 95, Sch. 5 para. 5](#) (with [reg. 3](#)) (as amended (1.4.2013) by [The Financial Services Act 2012 \(Consequential Amendments and Transitional Provisions\) Order 2013 \(S.I. 2013/472\)](#), [Sch. 2 para. 155\(6\)\(e\)](#) (with [Sch. 2 para. 156](#)))
- C29** S. 352 applied (11.2.2010) by [The Cross-Border Payments in Euro Regulations 2010 \(S.I. 2010/89\)](#), [reg. 19, Sch. para. 4](#)
- C30** S. 352 applied (9.2.2011 for certain purposes and 30.4.2011 otherwise) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), [regs. 1\(2\)\(a\)\(xiv\)\(b\), 62, Sch. 3 para. 6](#) (with [reg. 3](#))

Commencement Information

- I4** S. 352 wholly in force at 3.9.2001; s. 352 not in force at Royal Assent see s. 431(2); s. 352 in force for specified purposes at 18.6.2001 by [S.I. 2001/1820](#), [art. 2, Sch.](#); s. 352 in force in so far as not already in force at 3.9.2001 by [S.I. 2001/2632](#), [art. 2\(2\), Sch. Pt. 2](#)

353 Removal of other restrictions on disclosure.

- (1) The Treasury may make regulations permitting the disclosure of any information, or of information of a prescribed kind—
 - (a) by prescribed persons for the purpose of assisting or enabling them to discharge prescribed functions under this Act or any rules or regulations made under it;
 - (b) by prescribed persons, or persons of a prescribed description, to the Authority for the purpose of assisting or enabling the Authority to discharge prescribed functions.
- (2) Regulations under this section may not make any provision in relation to the disclosure of confidential information by primary recipients or by any person obtaining confidential information directly or indirectly from a primary recipient.
- (3) If a person discloses any information as permitted by regulations under this section the disclosure is not to be taken as a contravention of any duty to which he is subject.

Modifications etc. (not altering text)

- C31** [S. 353](#) modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1986 c. 53, s. 53A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8, 13\(1\), Sch. 3 Pt. II para. 152](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)
- [S. 353](#) modified (17.8.2001 for certain purposes otherwise 1.12.2001) by [1992 c. 40, 63A](#) (as substituted (17.8.2001 for certain purposes otherwise 1.12.2001) by [S.I. 2001/2617](#), [arts. 2, 8, 13\(1\), Sch. 3 Pt. I para. 78](#)); [S.I. 2001/3538](#), [art. 2\(1\)](#)

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