Communications Act 2003

2003 CHAPTER 21

PART 6

MISCELLANEOUS AND SUPPLEMENTAL

Disclosure of information

393 General restrictions on disclosure of information

(1) Subject to the following provisions of this section, information with respect to a particular business which has been obtained in exercise of a power conferred by—

(a) this Act,

[F1](b) . . . . . .

(c) the 1990 Act, or

(d) the 1996 Act,

is not, so long as that business continues to be carried on, to be disclosed without the consent of the person for the time being carrying on that business.

(2) Subsection (1) does not apply to any disclosure of information which is made—

(a) for the purpose of facilitating the carrying out by OFCOM of any of their functions;

(b) for the purpose of facilitating the carrying out by any relevant person of any relevant function;

(c) for the purpose of facilitating the carrying out by the Comptroller and Auditor General of any of his functions;

(d) for any of the purposes specified in section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (criminal proceedings and investigations);

(e) for the purpose of any civil proceedings brought under or by virtue of this Act or any of the enactments or instruments mentioned in subsection (5); or

(f) for the purpose of securing compliance with an international obligation of the United Kingdom.

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Changes to legislation: *Communications Act 2003, Cross Heading: Disclosure of information is up to date with all changes known to be in force on or before 19 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) Each of the following is a relevant person for the purposes of this section—

(a) a Minister of the Crown and the Treasury;

(b) the Scottish Executive;

(c) a Northern Ireland department;

(d) the Office of Fair Trading;

(e) the Competition Commission;

(f) the Consumer Panel;

(g) the Welsh Authority;

(h) a local weights and measures authority in Great Britain;

(i) any other person specified for the purposes of this subsection in an order made by the Secretary of State.

(4) The following are relevant functions for the purposes of this section—

(a) any function conferred by or under this Act;

(b) any function conferred by or under any enactment or instrument mentioned in subsection (5);

(c) any other function specified for the purposes of this subsection in an order made by the Secretary of State.

(5) The enactments and instruments referred to in subsections (2) and (4) are—

[F2](a) . . . . . .

[F2](b) . . . . . .

(c) the Wireless Telegraphy Act 1967 (c. 72);

(d) the Trade Descriptions Act 1968 (c. 29);

(e) the Fair Trading Act 1973 (c. 41);

(f) the Consumer Credit Act 1974 (c. 39);

(g) the Competition Act 1980 (c. 21);

(h) the Telecommunications Act 1984 (c. 12);

(i) the Consumer Protection Act 1987 (c. 43);

(j) the 1990 Act;

(k) the 1996 Act;

[F3](l) . . . . . .

(m) the Competition Act 1998 (c. 41);

(n) the Enterprise Act 2002 (c. 40);

[[F4](na) the Wireless Telegraphy Act 2006;**]**

(o) the Consumer Protection (Northern Ireland) Order 1987 (S.I. 1987/2049 (N.I. 20));

[[F5](p) the Business Protection from Misleading Marketing Regulations 2008;

(q) the Consumer Protection from Unfair Trading Regulations 2008.**]**

(6) Nothing in this section—

(a) limits the matters that may be published under section 15, 26 or 390;

(b) limits the matters that may be included in, or made public as part of, a report made by OFCOM by virtue of a provision of this Act or the Office of Communications Act 2002 (c. 11);

(c) prevents the disclosure of anything for the purposes of a report of legal proceedings in which it has been publicly disclosed;

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(d) applies to information that has been published or made public as mentioned in paragraphs (a) to (c).

(7) Nothing in this section applies to information obtained in exercise of the powers conferred by section 196 of the 1990 Act (powers of entry and search).

(8) Information obtained by OFCOM in exercise of functions which are exercisable by them concurrently with the Office of Fair Trading under Part 1 of the Competition Act 1998 is subject to Part 9 of the Enterprise Act 2002, and not to the preceding provisions of this section.

(9) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (restriction on disclosure of information for overseas purposes) shall have effect in relation to a disclosure by virtue of subsection (2)(d) as it applies in relation to a disclosure in exercise of a power to which section 17 of that Act applies.

(10) A person who discloses information in contravention of this section is guilty of an offence and 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.

(11) No order is to be made containing provision authorised by subsection (3) or (4) unless a draft of the order has been laid before Parliament and approved by a resolution of each House.

(12) In this section "legal proceedings" means civil or criminal proceedings in or before any court, or proceedings before any tribunal established by or under any enactment.

Textual Amendments

F1 S. 393(1)(b) repealed (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), **Sch. 9 Pt. 1** (with Sch. 8 Pt. 1)

F2 S. 393(5)(a)(b) repealed (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), **Sch. 9 Pt. 1** (with Sch. 8 Pt. 1)

F3 S. 393(5)(l) repealed (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), **Sch. 9 Pt. 1** (with Sch. 8 Pt. 1)

F4 S. 393(5)(na) inserted (8.2.2007) by Wireless Telegraphy Act 2006 (c. 36), s. 126(2), **Sch. 7 para. 31**

F5 S. 393(5)(p)(q) substituted for s. 393(5)(p) (26.5.2008) by The Consumer Protection from Unfair Trading Regulations 2008 (S.I. 2008/1277), reg. 1, **Sch. 2 para. 72** (with reg. 28(2)(3))

Modifications etc. (not altering text)

C1 S. 393 applied (20.7.2004) by Contracting Out (Functions relating to Broadcast Advertising) and Specification of Relevant Functions Order 2004 (S.I. 2004/1975), arts. 1, **11(1)** (with art. 5)

Commencement Information

I1 S. 393(1)(a)(b)(2)-(4)(5)(a)-(i)(l)-(p)(6)(b)-(d)(8)-(12) in force at 25.7.2003 for specified purposes by S.I. 2003/1900, arts. 1(2), 2(1), **Sch. 1** (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))

I2 S. 393(1)(a) (b) (2)-(4) (5)(a)-(i) (l)-(p) (6)(b)-(d) (8)-(12) in force at 29.12.2003 in so far as not already in force by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

I3 S. 393(1)(c)(d)(5)(j)(k)(7) in force at 29.12.2003 by S.I. 2003/3142, art. 3(1), **Sch. 1** (with art. 11)

I4 S. 393(6)(a) in force at 25.7.2003 for specified purposes by S.I. 2003/1900, arts. 1(2), 2(1), **Sch. 1** (with art. 3) (as amended by S.I. 2003/3142, art. 1(3))

I5 S. 393(6)(a) in force at 29.12.2003 in so far as not already in force by S.I. 2003/3142, art. 3(1), **Sch. 2** (with art. 11)

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