

**Changes to legislation:** Energy Act 2013, PART 3 is up to date with all changes known to be in force on or before 28 February 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) View outstanding changes

## SCHEDULES

### SCHEDULE 9

#### DISCLOSURE OF INFORMATION

#### PART 3

##### PROTECTED INFORMATION: PERMITTED DISCLOSURES AND RESTRICTIONS ON USE

##### *Disclosure with appropriate consent*

- 7 (1) Paragraph 2 does not prohibit a disclosure of protected information if it is made with the appropriate consent.
- (2) For this purpose “the appropriate consent” means—
- (a) if the information was obtained as mentioned in paragraph 1(1) as a result of any premises being entered—
    - (i) by an inspector in exercise of a relevant power,
    - (ii) by a health and safety inspector in exercise of a power under section 20 of the 1974 Act, or
    - (iii) by an ONR inquiry official in exercise of an ONR inquiry power,the consent of a person having responsibilities in relation to the premises;
  - (b) in any other case, the consent of the person from whom the information was obtained, or who provided it, as mentioned in paragraph 1(1).

##### Commencement Information

**II** Sch. 9 para. 7 in force at 1.4.2014 by S.I. 2014/251, art. 4

##### *Disclosure by ONR, inspectors etc*

- 8 Paragraph 2 does not prohibit a disclosure of protected information by—
- (a) the ONR,
  - (b) an inspector,
  - (c) a health and safety inspector, or
  - (d) an ONR inquiry official,
- for the purposes of any of that person's functions.

##### Commencement Information

**I2** Sch. 9 para. 8 in force at 1.4.2014 by S.I. 2014/251, art. 4

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*Disclosure to the ONR, inspectors etc*

- 9 Paragraph 2 does not prohibit a disclosure of protected information to—
- (a) the ONR,
  - (b) an officer of the ONR,
  - (c) a person or body performing any functions of the ONR on its behalf by virtue of section 95,
  - (d) an officer of such a body,
  - (e) a person providing advice to the ONR,
  - (f) an inspector, or
  - (g) a health and safety inspector.

**Commencement Information**

**I3** Sch. 9 para. 9 in force at 1.4.2014 by [S.I. 2014/251](#), [art. 4](#)

*Ministers, government departments and certain authorities*

- 10 (1) Paragraph 2 does not prohibit the following disclosures of protected information—
- (a) a disclosure to—
    - (i) a relevant authority, or
    - (ii) an officer of a relevant authority, or
  - (b) a disclosure by a person within paragraph (a) which is necessary for any of the purposes of the relevant authority in question.
- (2) For this purpose, “relevant authority” means—
- (a) a Minister of the Crown,
  - (b) the Scottish Ministers,
  - (c) the Welsh Ministers,
  - (d) a Northern Ireland Department,
  - (e) the Environment Agency,
  - (f) the Scottish Environment Protection Agency,
  - (g) the Natural Resources Body for Wales,
  - (h) [<sup>F1</sup>the Office of Rail and Road],
  - (i) the Civil Aviation Authority, or
  - (j) any other government department.
- (3) A person within sub-paragraph (1)(a) to whom protected information is disclosed by virtue of any provision of this Schedule may not use the information for a purpose other than any of the purposes of the relevant authority in question.

**Textual Amendments**

**F1** Words in Sch. 9 para. 10(2)(h) substituted (E.W.S.) (16.10.2015) by [The Office of Rail Regulation \(Change of Name\) Regulations 2015 \(S.I. 2015/1682\)](#), reg. 1(2), [Sch. para. 4\(w\)\(iv\)](#)

**Commencement Information**

**I4** Sch. 9 para. 10 in force at 1.4.2014 by [S.I. 2014/251](#), [art. 4](#)

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*Health and safety etc*

- 11 (1) Paragraph 2 does not prohibit the following disclosures of protected information—
- (a) a disclosure to a health and safety authority, or
  - (b) a disclosure by a health and safety authority which is—
    - (i) made by or with the consent of the Health and Safety Executive, and
    - (ii) necessary for any of the purposes of the Health and Safety Executive.
- (2) A health and safety authority to whom protected information is disclosed by virtue of any provision of this Schedule may not use the information for any purpose other than any of the purposes of the Health and Safety Executive.
- (3) For this purpose, “health and safety authority” means—
- (a) the Health and Safety Executive,
  - (b) an officer of the Health and Safety Executive,
  - (c) a person or body performing any functions of the Health and Safety Executive on its behalf by virtue of section 13(3) of the 1974 Act,
  - (d) an officer of such a body,
  - (e) an adviser appointed by that Executive under section 13(7) of that Act, and
  - (f) a person appointed by that Executive under section 19 of that Act as an inspector within the meaning given in that section.

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**Commencement Information**

**I5** Sch. 9 para. 11 in force at 1.4.2014 by S.I. 2014/251, art. 4

- 12 (1) Paragraph 2 does not prohibit the following disclosures of protected information—
- (a) a disclosure to a person with enforcement responsibilities;
  - (b) a disclosure by such a person which is—
    - (i) made by or with the consent of the enforcing authority in question, and
    - (ii) necessary for the purposes of any function which the enforcing authority in question has in its capacity as an enforcing authority.
- (2) A person with enforcement responsibilities to whom protected information is disclosed by virtue of any provision of this Schedule may not use the information otherwise than for the purposes of any function which the enforcing authority in question has in its capacity as such.
- (3) For this purpose, “person with enforcement responsibilities” means—
- (a) an enforcing authority within the meaning of the 1974 Act, other than the ONR or the Health and Safety Executive;
  - (b) an officer of an authority within paragraph (a);
  - (c) a person appointed by such an authority under section 19 of that Act as an inspector within the meaning given in that section.

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**Commencement Information**

**I6** Sch. 9 para. 12 in force at 1.4.2014 by S.I. 2014/251, art. 4

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- 13 (1) Paragraph 2 does not prohibit the following disclosures of protected information—
- (a) a disclosure to a Northern Ireland health and safety authority;
  - (b) a disclosure by a Northern Ireland health and safety authority which is—
    - (i) made by or with the consent of the Health and Safety Executive for Northern Ireland, and
    - (ii) necessary for any of the purposes of the Health and Safety Executive for Northern Ireland.
- (2) A Northern Ireland health and safety authority to whom protected information is disclosed by virtue of any provision of this Schedule may not use the information for any purpose other than any of the purposes of the Health and Safety Executive for Northern Ireland.
- (3) For this purpose, Northern Ireland health and safety authority means—
- (a) the Health and Safety Executive for Northern Ireland,
  - (b) an officer of the Health and Safety Executive for Northern Ireland,
  - (c) a person or body performing any functions of the Health and Safety Executive for Northern Ireland on its behalf by virtue of Article 15(1)(a) of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)),
  - (d) an officer of such a body,
  - (e) an adviser appointed by that Executive under Article 15(1)(c) of that Order, and
  - (f) a person appointed by that Executive under Article 21 of that Order as an inspector within the meaning of that Article.

#### Commencement Information

**I7** Sch. 9 para. 13 in force at 1.4.2014 by S.I. 2014/251, art. 4

#### *Local authorities and water authorities etc*

- 14 (1) Paragraph 2 does not prohibit the following disclosures of protected information—
- (a) a disclosure by the original holder to an officer of a local authority or relevant water authority who is authorised by the authority to receive the information;
  - (b) a disclosure by an officer of a local authority or relevant water authority to whom the information is disclosed by virtue of paragraph (a) which is necessary for a relevant purpose.
- (2) A person to whom information is disclosed by virtue of sub-paragraph (1)(a) must not use the information for a purpose other than a relevant purpose.
- (3) For the purposes of this paragraph—
- “local authority” includes the following—
- (a) a joint authority established by Part 4 of the Local Government Act 1985;
  - (b) <sup>F2</sup>...
  - (c) an economic prosperity board established under section 88 of the Local Democracy, Economic Development and Construction Act 2009;
  - (d) a combined authority established under section 103 of that Act;

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- (da) [<sup>F3</sup>a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;]
- (e) [<sup>F4</sup>the London Fire Commissioner,]
- (f) the Broads Authority;
- (g) a National Park authority;
- “relevant water authority” means—
  - (a) a water undertaker,
  - (b) a sewerage undertaker,
  - (c) a water authority,
  - (d) a water development board, or
  - (e) Scottish Water;
- “relevant purpose”, in relation to an officer of a local authority or relevant water authority, means any purpose of the authority in connection with—
  - (a) any of the relevant statutory provisions or any of the provisions which are relevant statutory provisions for the purposes of Part 1 of the 1974 Act, or
  - (b) any provision of, or made under, primary legislation which relates to public health, public safety or the protection of the environment.

#### Textual Amendments

- F2** Words in Sch. 9 para. 14(3) omitted (26.5.2015) by virtue of [Deregulation Act 2015 \(c. 20\), s. 115\(7\), Sch. 13 para. 6\(36\)](#); [S.I. 2015/994, art. 6\(g\)](#)
- F3** Words in Sch. 9 para. 14(3) inserted (31.1.2017 for specified purposes, 3.4.2017 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 1 para. 96](#); [S.I. 2017/399, reg. 2, Sch. para. 38](#)
- F4** Words in Sch. 9 para. 14(3) substituted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 2 para. 121](#); [S.I. 2018/227, reg. 4\(c\)](#)

#### Commencement Information

- I8** Sch. 9 para. 14 in force at 1.4.2014 by [S.I. 2014/251, art. 4](#)

#### Police

- 15 (1) Paragraph 2 does not prohibit the following disclosures of protected information—
  - (a) a disclosure by the original holder to a constable authorised by a chief officer of police to receive it;
  - (b) a disclosure by a constable to whom it is disclosed by virtue of paragraph (a) which is necessary for any of the purposes of the police in connection with—
    - (i) the relevant statutory provisions, or
    - (ii) any provision of, or made under, primary legislation which relates to public health, public safety or national security.
- (2) A constable to whom information is disclosed by virtue of sub-paragraph (1) must not use the information for a purpose other than a purpose of the police in connection with—
  - (a) any of the relevant statutory provisions or any of the provisions which are relevant statutory provisions for the purposes of Part 1 of the 1974 Act, or

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- (b) any provision of, or made under, primary legislation which relates to public health, public safety or national security.

**Commencement Information**

**I9** Sch. 9 para. 15 in force at 1.4.2014 by S.I. 2014/251, art. 4

*Disclosure required under legislation*

- 16 Paragraph 2 does not prohibit a disclosure of protected information which is made in accordance with an obligation under—
- (a) the Freedom of Information Act 2000,
  - (b) the Freedom of Information (Scotland) Act 2002, or
  - (c) environmental information regulations within the meaning given in section 39(1A) of the Freedom of Information Act 2000.

**Commencement Information**

**I10** Sch. 9 para. 16 in force at 1.4.2014 by S.I. 2014/251, art. 4

*Legal proceedings, inquiries and investigations*

- 17 Paragraph 2 does not prohibit a disclosure of protected information for the purposes of—
- (a) any legal proceedings,
  - (b) an ONR inquiry,
  - (c) an inquiry under section 14(2A) of the 1974 Act which is relevant to the ONR's purposes,
  - (d) an investigation held by virtue of section 84,
  - (e) any report of such proceedings, ONR inquiry or inquiry under section 14(2A) of the 1974 Act or any special report under section 84.

**Commencement Information**

**I11** Sch. 9 para. 17 in force at 1.4.2014 by S.I. 2014/251, art. 4

- 18 Paragraph 2 does not prohibit a disclosure of protected information which is made—
- (a) by an inspector, a health and safety inspector or an ONR inquiry official,
  - (b) to a person who appears to the person making the disclosure to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, and
  - (c) in the form of a written statement of relevant facts observed by the person making the disclosure in the course of exercising a relevant power, a power under section 20 of the 1974 Act or an ONR inquiry power.

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#### Commencement Information

**I12** Sch. 9 para. 18 in force at 1.4.2014 by S.I. 2014/251, art. 4

- 19 (1) Paragraph 2 does not prohibit a disclosure of protected information which is made—
- (a) by the ONR, an inspector, a health and safety inspector or an ONR inquiry official, and
  - (b) for any of the purposes specified in section 17(2)(a) to (d) of the Anti-terrorism, Crime and Security Act 2001 (criminal proceedings and investigations).
- (2) Section 18 of that Act (restriction on disclosure of information for overseas purposes) has effect in relation to a disclosure authorised by sub-paragraph (1) as it has effect in relation to a disclosure authorised by any of the provisions to which section 17 of that Act applies.

#### Commencement Information

**I13** Sch. 9 para. 19 in force at 1.4.2014 by S.I. 2014/251, art. 4

#### *Disclosure for safeguards purposes*

- 20 Paragraph 2 does not prohibit a disclosure of protected information which is made for the purposes of [<sup>F5</sup>a relevant international agreement].

#### Textual Amendments

**F5** Words in Sch. 9 para. 20 substituted (31.12.2020) by Nuclear Safeguards Act 2018 (c. 15), s. 6(2), Sch. para. 12; S.I. 2020/1547, reg. 2(b)

#### Commencement Information

**I14** Sch. 9 para. 20 in force at 1.4.2014 by S.I. 2014/251, art. 4

#### *Anonymised information*

- 21 Paragraph 2 does not prohibit a disclosure of protected information which is made in a form calculated to prevent the information from being identified as relating to a particular person or case.

#### Commencement Information

**I15** Sch. 9 para. 21 in force at 1.4.2014 by S.I. 2014/251, art. 4

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 68(4) inserted by [2023 c. 52 s. 302\(4\)](#)