National Security and Investment Act 2021

2021 CHAPTER 25

PART 4

MISCELLANEOUS

Administrative requirements

53 Procedure for service, etc

(1) The Secretary of State may by regulations make provision for the procedure which must be followed when a provision of or made under this Act requires or allows a notice, order, notification or document of any kind to be given or served.

(2) The regulations may, in particular, make provision—

(a) as to the manner in which a document must be given or served,

(b) as to the address to which a document must be sent,

(c) requiring, or allowing, a document to be sent electronically,

(d) for treating a document as having been given, received or served on a date or at a time determined in accordance with the regulations,

(e) as to what must, or may, be done if a sender or an intended recipient is not an individual,

(f) as to what must, or may, be done if a person is treated by virtue of Schedule 1 as holding an interest or right for the purposes of this Act,

(g) as to what must, or may, be done if a sender or an intended recipient is outside the United Kingdom.

(3) Section 7 of the Interpretation Act 1978 (service of notice by post) has effect in relation to provisions made under this Act subject to any provision made by regulations under this section.

Commencement Information

I1 S. 53(1) in force at 29.4.2021, see s. 66

I2 S. 53(2)(3) in force at 1.7.2021 by S.I. 2021/788, **reg. 2(d)**

Information gateways

54 Disclosure of information

(1) A public authority may disclose information to the Secretary of State for the purpose of facilitating the exercise by the Secretary of State of functions under this Act.

(2) The Secretary of State may disclose information received under this Act to a public authority or an overseas public authority—

(a) for the purpose of facilitating the exercise by the Secretary of State of functions under this Act,

(b) for the prevention or detection of crime,

(c) for the purposes of a criminal investigation,

(d) for the purposes of criminal proceedings,

(e) for the purposes of civil proceedings under this Act, or

(f) for the purpose of protecting national security.

(3) The Secretary of State may also disclose such information to an overseas public authority for the purpose of the exercise of corresponding functions of overseas public authorities.

(4) A person who receives information under subsection (2) or (3) may not—

(a) use the information for a purpose other than the purpose for which it was disclosed, or

(b) further disclose the information,

except with the consent of the Secretary of State (which may be general or specific).

(5) Subsection (4) does not apply to information to which section 55 applies (information received from HMRC).

(6) In deciding whether to disclose information under this section, the Secretary of State must consider whether the disclosure would prejudice, to an unreasonable degree, the commercial interests of any person concerned.

(7) In deciding whether to disclose information to an overseas public authority under this section, the Secretary of State must have regard, in particular, to the following considerations—

(a) whether the law of the country or territory to whose authority the disclosure would be made provides protection against self-incrimination in criminal proceedings which corresponds to the protection provided in any part of the United Kingdom, and

(b) whether the matter in respect of which the disclosure is sought is sufficiently serious to justify making the disclosure.

(8) Except as provided by section 57, the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(9) In this section—

"overseas public authority" means a person in any country or territory outside the United Kingdom which appears to the Secretary of State to exercise functions of a public nature which—

(a) correspond to the functions of the Secretary of State under this Act, or

(b) relate to any of the purposes mentioned in paragraphs (b) to (f) of subsection (2),

"public authority" has the same meaning as in section 6 of the Human Rights Act 1998.

Commencement Information

I3 S. 54 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

55 Disclosure of information held by HMRC

(1) A person who receives information disclosed under section 54 by Her Majesty's Revenue and Customs (or anyone acting on their behalf) may not—

(a) use the information for a purpose other than the purpose mentioned in section 54(1), or

(b) further disclose the information,

except with the consent of the Commissioners for Her Majesty's Revenue and Customs (which may be general or specific).

(2) If a person discloses information in contravention of subsection (1)(b) which relates to a person whose identity—

(a) is specified in the disclosure, or

(b) can be deduced from it,

section 19 of the Commissioners for Revenue and Customs Act 2005 (offence of wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of information in contravention of section 20(9) of that Act (and, accordingly, section 35 of this Act does not apply to that disclosure).

(3) Except as provided by section 57, the disclosure of information under this section does not breach—

(a) any obligation of confidence owed by the person disclosing the information, or

(b) any other restriction on the disclosure of information (however imposed).

Commencement Information

I4 S. 55 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

CMA information

56 Duty of CMA to provide information and assistance

The Competition and Markets Authority must give the Secretary of State—

(a) such information in its possession as the Secretary of State may by direction reasonably require to enable the Secretary of State to exercise functions under this Act,

(b) any other assistance which the Secretary of State may by direction reasonably require for the purpose of facilitating the exercise by the Secretary of State of functions under this Act and which it is within the power of the Authority to give.

Commencement Information

I5 S. 56 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

Data protection

57 Data protection

(1) This section applies to a duty or power to disclose or use information where the duty or power is imposed or conferred by or under any provision of Parts 1 to 4 of this Act.

(2) A duty or power to which this section applies does not operate to require or authorise the disclosure or use of information if the disclosure or use—

(a) would contravene the data protection legislation (but the duty or power is to be taken into account in determining whether the disclosure or use would contravene that legislation), or

(b) is prohibited by any of Parts 1 to 7 of, or Chapter 1 of Part 9 of, the Investigatory Powers Act 2016.

(3) In this section "data protection legislation" has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

Commencement Information

I6 S. 57 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

Minor amendments, etc

58 Minor and consequential amendments and revocations

Schedule 2 contains minor amendments and amendments and revocations which are consequential on this Act.

Commencement Information

I7 S. 58 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

Disclosure of information under the Enterprise Act 2002

59 Overseas information disclosure

In section 243(3)(d) of the Enterprise Act 2002, omit "3 or".

Commencement Information
I8 S. 59 in force at 1.7.2021 by S.I. 2021/788, **reg. 2(e)** (with reg. 3)

Defamation

60 Defamation

For the purposes of the law relating to defamation, absolute privilege attaches to any notice or direction given, or decision, report or order made, by the Secretary of State or the Competition and Markets Authority in the exercise of functions under or by virtue of this Act.

Commencement Information
I9 S. 60 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

Annual report

61 Annual report

(1) The Secretary of State must, in relation to each relevant period—
- (a) prepare a report in accordance with this section, and
- (b) lay a copy of it before each House of Parliament as soon as is practicable after the end of that period.

(2) Each report must provide details of—
- (a) the expenditure incurred by the Secretary of State in giving, or in connection with giving, financial assistance falling within section 30,
- (b) the amount of the actual or contingent liabilities of the Secretary of State at the end of the relevant period in respect of such financial assistance,
- (c) the number of mandatory notices accepted,
- (d) the number of mandatory notices rejected,
- (e) the average number of working days—
  - (i) from receipt of a mandatory notice to notification of a decision to accept that notice, and
  - (ii) from receipt of a mandatory notice to giving written reasons for a decision to reject that notice,
- (f) the sectors of the economy in relation to which mandatory notices were given,
- (g) the number of voluntary notices accepted,
- (h) the number of voluntary notices rejected,
- (i) the average number of working days—

(i) from receipt of a voluntary notice to notification of a decision to accept that notice, and

(ii) from receipt of a voluntary notice to giving written reasons for a decision to reject that notice,

(j) the sectors of the economy in relation to which voluntary notices were given,

(k) the number of call-in notices given,

(l) the sectors of the economy in relation to which call-in notices were given,

(m) the number of final notifications given,

(n) the number of final orders made,

(o) the number of final orders varied,

(p) the number of final orders revoked.

(3) "Relevant period" means—

(a) the period beginning with the day on which this section comes into force and ending with the following 31 March, and

(b) each subsequent period of 12 months.

Commencement Information

I10 S. 61 in force at 4.1.2022 by S.I. 2021/1465, **regs. 2**, 3 (with regs. 4, 5)

Changes to legislation:
There are currently no known outstanding effects for the National Security and Investment Act 2021, PART 4.