

Section 28 (as amended) of the Health and Safety at Work etc Act 1974

Restrictions on disclosure of information.

28-(1) In this and the two following subsections-

- (a) "relevant information" means information obtained by a person under section 27(1) or furnished to any person **under section 27A above** or in pursuance of a requirement imposed by any of the relevant statutory provisions; and
- (b) "the recipient", in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.

(2) Subject to the following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.

(3) The preceding subsection shall not apply to -

- (a) disclosure of information to the Commission, the Executive, **the Environment Agency or of the Scottish Environment Protection Agency**, a government department or any enforcing authority;
- (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions;
- (c) without prejudice to paragraph (a) above, disclosure by the recipient of information to -
 - (i) an officer of a local authority who is authorised by that authority to receive it,
 - (ii) an officer of a **water undertaker, sewerage undertaker**, water authority or water development board who is authorised by that **undertaker**, authority or board to receive it,
 - ~~(iii) an officer of a river purification board who is authorised by that board to receive it, or~~
 - (iv) a constable authorised by a chief officer of police to receive it;
- (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
- (e) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2), or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2).

(4) In the preceding subsection any reference to the Commission, the Executive, **the Environment Agency or of the Scottish Environment Protection Agency**, a government department or an enforcing authority includes

Key:

Text is shown thus which has been added to the original text

~~Text is shown thus~~ which has been removed from the original text

NOTE 3

respectively a reference to an officer of that body or authority (including, in the case of an enforcing authority, any inspector appointed by it), and also, in the case of a reference to the Commission, includes a reference to -

- (a) a person performing any functions of the Commission or the Executive on its behalf by virtue of section 13(1)(a);
 - (b) an officer of a body which is so performing any such functions; and
 - (c) an adviser appointed in pursuance of section 13(1)(d).
- (5) A person to whom information is disclosed in pursuance of subsection (3) above shall not use the information for a purpose other than -
- (a) in a case falling within paragraph (a) of that subsection, a purpose of the Commission or of the Executive or **of the Environment Agency or of the Scottish Environment Protection Agency** or of the government department in question, or the purposes of the enforcing authority in question in connection with the relevant statutory provisions, as the case may be;
 - (b) in the case of information given to an officer of a **body which is a local authority, a water undertaker, a sewerage undertaker,** ~~or of a water authority, or of a river purification board or water development board,~~ the purposes of the ~~authority or board~~ **body** in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the protection of the environment;
 - (c) in the case of information given to a constable, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of the State.
- (6) ~~In subsections (3)(c) and (5) above, before 16th May 1975, the references to a water authority in their application to Scotland shall be construed as references to a regional water board~~References in subsections (3) and (5) above to a local authority include a joint authority established by Part IV of the Local Government Act 1985.
- (7) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred by section 14(4)(a) or 20 (including, in particular, any information with respect to any trade secret obtained by him in any premises entered by him by virtue of any such power) except -
- (a) for the purposes of his functions; or
 - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of section 14(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of section 14(2); or
 - (c) with the relevant consent.

In this subsection "the relevant consent" means, in the case of information furnished in pursuance of a requirement imposed under section 20, the consent of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

Key:

Text is shown thus which has been added to the original text

~~Text is shown thus~~ which has been removed from the original text

NOTE 3

(8) Notwithstanding anything in the preceding subsection an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say -

- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein; and
- (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions;

and, where an inspector does as aforesaid, he shall give the like information to the employer of the first- mentioned persons.

(9) Notwithstanding anything in subsection (7) above, a person who has obtained such information as is referred to in that subsection may furnish to a person who appears to him to be likely to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in that subsection.

(10) The Broads Authority and every National Park authority shall be deemed to be local authorities for the purposes of this section.

Key:

Text is shown thus which has been added to the original text

~~Text is shown thus~~ which has been removed from the original text