



# Environment Act 2021

## 2021 CHAPTER 30

### PART 5

#### WATER

##### *Land drainage*

#### **97 Disclosure of Revenue and Customs information**

- (1) The Land Drainage Act 1991 is amended as follows.
- (2) After section 37 insert—

*“Disclosure of Revenue and Customs information*

#### **37A Disclosure of Revenue and Customs information**

- (1) An officer of the Valuation Office of Her Majesty’s Revenue and Customs may disclose Revenue and Customs information to a qualifying person for a qualifying purpose.
- (2) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (3) Each of the following is a “qualifying person”—
  - (a) an internal drainage board;
  - (b) the Agency;
  - (c) the Natural Resources Body for Wales;
  - (d) a person authorised to exercise any function of a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
  - (e) a person providing services to a body within paragraph (a), (b) or (c) relating to drainage rates or special levies;
  - (f) the Secretary of State;

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- (g) the Welsh Ministers;
  - (h) any other person specified in regulations made by the appropriate national authority.
- (4) Each of the following is a “qualifying purpose”—
- (a) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to carry out any functions conferred by or under Chapter 1 or 2 of this Part or section 75 of the Local Government Finance Act 1988;
  - (b) enabling the qualifying person to whom the disclosure is made, or any other qualifying person, to determine for the purposes of Part 1 how functions mentioned in paragraph (a) might be exercised by—
    - (i) an internal drainage board which is proposed to be constituted under that Part, or
    - (ii) the drainage board for an internal drainage district which is proposed to be constituted under that Part.
- (5) Regulations under subsection (3)(h) may only be made with the consent of the Commissioners for Her Majesty’s Revenue and Customs.
- (6) Regulations may not be made under subsection (3)(h) by the Secretary of State unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (7) Regulations may not be made under subsection (3)(h) by the Welsh Ministers unless a draft of the instrument containing the regulations has been laid before, and approved by a resolution of, Senedd Cymru.
- (8) In this section—
- “the appropriate national authority” means—
    - (a) the Secretary of State in relation to English internal drainage districts, and
    - (b) the Welsh Ministers in relation to Welsh internal drainage districts;
  - “drainage rates” means drainage rates made by an internal drainage board under Chapter 2 of this Part;
  - “Revenue and Customs information” means information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005;
  - “special levy” means a special levy issued by an internal drainage board under regulations under section 75 of the Local Government Finance Act 1988.

### **37B Restrictions on onward disclosure of Revenue and Customs information**

- (1) Information disclosed under section 37A or this section may not be further disclosed unless that further disclosure is—
- (a) to a qualifying person for a qualifying purpose,
  - (b) in pursuance of a court order,
  - (c) with the consent of each person to whom the information relates,
  - (d) required under any other enactment, or

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- (e) permitted under any other enactment.
- (2) Information may not be disclosed—
  - (a) under subsection (1)(a) to a qualifying person within section 37A(3)(d), (e), (f) or (g),
  - (b) under subsection (1)(a) to a person who is a qualifying person by virtue of regulations under section 37A(3)(h), where those regulations specify that this subsection is to apply in relation to the person, or
  - (c) under subsection (1)(e),except with the consent of the Commissioners for Her Majesty’s Revenue and Customs (which may be general or specific).
- (3) Information disclosed to a qualifying person under this section may be retained and used for any qualifying purpose.
- (4) A person commits an offence if the person contravenes subsection (1) or (2) by disclosing information relating to a person whose identity—
  - (a) is specified in the disclosure, or
  - (b) can be deduced from it.
- (5) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already lawfully been made available to the public.
- (6) A person guilty of an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.
- (7) A prosecution under this section may be instituted only by, or with the consent of, the Director of Public Prosecutions.
- (8) In relation to an offence under this section committed before the coming into force of paragraph 24(2) of Schedule 22 to the Sentencing Act 2020 (increase in maximum term that may be imposed on summary conviction of offence triable either way) the reference in subsection (6)(a) to 12 months is to be read as a reference to 6 months.
- (9) This section is without prejudice to the pursuit of any remedy or the taking of any action in relation to a contravention of subsection (1) or (2) (whether or not subsection (4) applies to the contravention).
- (10) In this section—
  - “qualifying person” has the same meaning as in section 37A;
  - “qualifying purpose” has the same meaning as in that section.

### **37C Further provisions about disclosure under section 37A or 37B**

- (1) A disclosure of information under section 37A or 37B does not breach—

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- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (2) But nothing in section 37A or 37B authorises the making of a disclosure—
- (a) if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take the powers conferred by those sections into account), or
  - (b) which is prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016.
- (3) Until the repeal of Part 1 of the Regulation of Investigatory Powers Act 2000 by paragraphs 45 and 54 of Schedule 10 to the Investigatory Powers Act 2016 is fully in force, subsection (2)(b) has effect as if it included a reference to that Part.
- (4) Revenue and customs information relating to a person which has been disclosed under section 37A or 37B is exempt information by virtue of section 44(1)(a) of the Freedom of Information Act 2000 (prohibition on disclosure) if its further disclosure—
- (a) would specify the identity of the person to whom the information relates, or
  - (b) would enable the identity of such a person to be deduced.
- (5) In subsection (4) “revenue and customs information relating to a person” has the same meaning as in section 19(2) of the Commissioners for Revenue and Customs Act 2005.
- (6) In this section “data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act).”
- (3) In section 65(2) (regulations) after “and (5E),” insert “section 37A(6) and (7),”.
- (4) In section 70 (confidentiality of information obtained by Environment Agency and Natural Resources Body for Wales)—
- (a) the existing provision becomes subsection (1);
  - (b) after that subsection insert—
    - “(2) Subsection (1) does not apply to information obtained by virtue of section 37A (disclosure of Revenue and Customs information).”
- (5) In section 72(1) (interpretation), at the appropriate places insert—
- ““enactment” includes an enactment comprised in subordinate legislation within the meaning of the Interpretation Act 1978;”;
  - ““English drainage board” means a drainage board for an English internal drainage district;”;
  - ““English internal drainage district” means an internal drainage district which is wholly or mainly in England;”;
  - ““Welsh drainage board” means a drainage board for a Welsh internal drainage district;”;
  - ““Welsh internal drainage district” means an internal drainage district which is wholly or mainly in Wales.”.

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**Commencement Information**

**II** [S. 97](#) in force at 9.1.2022, see [s. 147\(2\)\(n\)](#)

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