

ANTI-TERRORISM, CRIME AND SECURITY ACT 2001

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: Disclosure of Information

Section 17 Extension of existing disclosure powers

63. This section clarifies and extends a number of information disclosure provisions available to public authorities. The powers are listed in Schedule 4. It permits disclosure to assist any criminal investigation or criminal proceedings being carried out in the UK or abroad or to facilitate determinations of whether or not such investigations or proceedings should begin or end. The section does not limit any power to disclose that exists apart from this section. In determining whether they may disclose information, public authorities must ensure that their disclosure is proportionate to that which is intended by disclosing.

Section 18 Restriction on disclosure of information for overseas purposes

64. This section enables the Secretary of State to prohibit the disclosure of information for the purposes of overseas criminal investigations or criminal proceedings that would otherwise be permitted by section 17 or without section 17 by the provisions modified by that section. This power may be exercised where it appears to him that the overseas investigation or proceeding relates to a matter in respect of which it would be more appropriate for any jurisdiction or investigation to be exercised or carried out by the authorities of the United Kingdom or a third country.
65. Any person who knowingly makes a disclosure prohibited by the Secretary of State pursuant to section 18 will be guilty of an offence. The person will be liable on conviction on indictment to imprisonment for a term of up to two years or a fine or to both, and on summary conviction to imprisonment for a term of up to three months or a fine of up to the statutory maximum (which is currently set at £5000).

Section 19 Disclosure of information held by revenue departments

66. This section applies to information held by or for the Commissioners of the Inland Revenue and Customs and Excise Departments. The section provides that no obligation of secrecy, excepting the Data Protection Act 1998 requirements, prevents the voluntary disclosure of information on the authority of the relevant Commissioners made for the following purposes: to assist any criminal investigation or criminal proceedings being carried out in the UK or abroad or to facilitate whether or not such investigations or proceedings should begin or end. In addition, the section allows for disclosure to the intelligence services (the Security Service, the Secret Intelligence Service and GCHQ) in support of their functions. These functions include the protection of national security and the prevention and detection of serious crime.

These notes refer to the Anti-terrorism, Crime and Security Act 2001 (c.24) which received Royal Assent on 14th December 2001

67. Disclosed information cannot be further disclosed by the recipient except for the purposes permitted for original disclosures and with the consent of the relevant Commissioners. Bodies who receive information from Customs and the Inland Revenue may not further disclose that information to the intelligence services except for the purposes of criminal investigations or proceedings. The section does not limit any power to disclose that exists apart from this section. In determining whether they may disclose information, public authorities must ensure that their disclosure is proportionate to that which is intended by disclosing.

Section 20 Interpretation of Part 3

68. This section defines terms used throughout Part 3 and specifies that ‘criminal conduct’ refers to conduct which would be criminal if conducted in the UK.