

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Section 28: Disclosure of information for calculating fees of courts, tribunals etc

437. *Section 28* makes provision for the disclosure of information about tax credits, social security information and information about a person's income, gains or capital in order to determine a person's eligibility for a remission from paying fees to courts, tribunals or the Public Guardian.
438. *Subsection (1)* provides that the Secretary of State (in practice, the Secretary of State for Work and Pensions), or a relevant Northern Ireland Department, or a person providing services to them, may disclose social security information to a relevant person in order for that person to determine whether an applicant is eligible for a fee remission.
439. *Subsection (2)* enables Her Majesty's Revenue and Customs to disclose tax credit information or information about a person's income, gains or capital to a relevant person in order for that person to determine whether an applicant is eligible for a fee remission.
440. *Subsection (3)* provides that information disclosed to a relevant person under *subsection (1) or (2)* may only be shared with another relevant person who wants the information to assess whether someone is eligible for a fee remission; such information cannot be used for any other purpose.
441. *Subsection (4)* explains the limited circumstances in which information received for the purpose of deciding whether someone is eligible for a fee remission under either *subsection (1) or (2)* may be further disclosed. Further disclosure is only permitted where that information has already been disclosed to the public with lawful authority, where it is disclosed in a form such that information about an individual cannot be identified from it or where disclosure is necessary to comply with a court order or statutory duty.
442. *Subsection (5)* provides that it is an offence to disclose or use this information other than for the purposes specified.
443. *Subsection (6)* provides that where a person is charged with an offence under *subsection (5)*, it is a defence that they reasonably believed that the disclosure or use of the information was lawful.
444. *Subsection (7)* sets out the applicable penalties where a person is guilty of the offence under *subsection (5)*. A conviction on indictment may attract a sentence of imprisonment for a term not exceeding two years, a fine or both. On summary conviction a person is liable to a term of imprisonment not exceeding 12 months, a fine not exceeding the statutory maximum, or both.
445. *Subsection (8)* provides that in relation to summary convictions for the offence at *subsection (5)*, a prison sentence not exceeding 6 months applies to offences committed

*These notes refer to the Crime and Courts Act 2013
(c.22) which received Royal Assent on 25 April 2013*

in England and Wales before the implementation of section 154(1) of the Criminal Justice Act 2003 (which provides that a magistrates court does not have the power to impose a sentence of more than 12 months for one offence) or for offences committed in Northern Ireland.

446. *Subsection (9)* provides that, in England, Wales, and Northern Ireland, a person may only be prosecuted for an offence under this section by or with the consent of the relevant Director of Public Prosecutions.
447. *Subsection (10)* defines the terms used in this section. It sets out what is meant by a relevant person and includes a list of court, tribunal and other fee-charging provisions to which the disclosure regime applies.