

Section 24 Absolutely exempt information under international agreements about exchange of information

Introduction

This document is drafted as practical guidance to assist public authorities in applying the section 24 absolute exemption for information under international agreements about exchange of information. It is not intended to be a comprehensive assessment of the law in this area and a public authority is required to assess each request on the basis of its own individual facts.

A public authority can only rely on the exemption if the information falls within it. There is no prejudice test or public interest test.

A public authority should consider whether other exemptions, in addition to this one, may also apply to the requested information, bearing in mind that other exemptions might be more appropriate (see other exemptions guidance). Different exemptions may apply to different aspects of the requested information, although only one exemption needs to be engaged for information to be withheld.

A public authority may also need to consider whether to neither confirm nor deny that the information is held, if to do so would, in itself, be absolutely exempt under this section.¹

Is the information requested obtained, provided or dealt with under an international agreement² providing for the exchange of information for one of the following purposes or does it relate to such information -	
To ascertain whether a person has failed to comply with the law?	
To ascertain whether a person is responsible for conduct that is improper?	
To ascertain whether regulatory action under any enactment is justified?	
To ascertain a person's fitness or competence in relation to the management of corporate bodies?	
To ascertain a person's fitness or competence in relation to any profession or other activity that the person is, or seeks to become, authorised to carry on?	
To ascertain the cause of an accident?	
To protect a charity against misconduct or mismanagement (whether any trustees or other persons) in its administration?	
To protect the property of a charity from loss or mismanagement?	
To recover the property of a charity?	

¹ s19 of the Act and further guidance on NCND

² This includes, but is not limited to, an international arrangement for the purposes of Part 9 of the Income Tax Act 1970.

To secure the health, safety and welfare of persons at work?	
To protect persons, other than persons at work, against risk to health or safety where that risk arises out of, or in connection with, the actions of persons at work?	

Is the international agreement providing for the exchange of information, an agreement with any of the following-	
The United Kingdom?	
Any other state, including references to a territory of the United Kingdom outside the United Kingdom and the Crown Dependencies. Note, this also includes the government of a state and any organ of its government or administration?	
An international organisation – being an international organisation whose members include any 2 or more States, or any organ of such an organisation?	
An international court? An international court means an international court that is not an international organisation and that is established (a) by a resolution of an international organisation of which the UK is a member or (b) by an international agreement to which the UK is a party?	

The answer to at least one of the following must be yes	
Do the terms on which the information was obtained, provided or dealt with require the person who holds it to do so in confidence?	
Do the circumstances in which the information was obtained, provided or dealt with make it reasonable for the State, organisation or court to expect that it will be held in confidence?	

Further Information
The Information Commissioner has published guidance on the application of this exemption. https://www.inforights.im/media/1159/exempt24a_international_agreements.pdf