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STATUTORY INSTRUMENTS

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**1995 No. 3213**

**The Pensions (Northern Ireland) Order 1995**

**PART II**

**OCCUPATIONAL PENSIONS**

*Gathering information: the Authority*

**Provision of information: the Authority**

**96.**—(1) In the case of any occupational pension scheme—

- (a) a trustee, manager, professional adviser or employer, and
- (b) any other person appearing to the Authority to be a person who holds, or is likely to hold, information relevant to the discharge of the Authority's functions,

must, if required to do so by them by notice in writing, produce any document relevant to the discharge of those functions.

(2) To comply with paragraph (1) the document must be produced in such a manner, at such a place and within such a period as may be specified in the notice.

(3) In this Article and Articles 97 to 99, “document” includes information recorded in any form, and any reference to production of a document, in relation to information recorded otherwise than in legible form, is to producing a copy of the information in legible form.

**Inspection of premises: the Authority**

**97.**—(1) An inspector may, for the purposes of investigating whether, in the case of any occupational pension scheme, the regulatory provisions are being, or have been, complied with, at any reasonable time enter premises liable to inspection and, while there—

- (a) may make such examination and inquiry as may be necessary for such purposes,
- (b) may require any person on the premises to produce, or secure the production of, any document relevant to compliance with those provisions for his inspection, and
- (c) may, as to any matter relevant to compliance with those provisions, examine, or require to be examined, either alone or in the presence of another person, any person on the premises whom he has reasonable cause to believe to be able to give information relevant to that matter.

(2) In paragraph (1), “the regulatory provisions” means provisions made by or under—

- (a) the provisions of this Part, other than the following provisions: Articles 51 to 54, 62 to 65 and 108 to 110,
- (b) the following provisions of the Pension Schemes Act: section 2 (registration), Chapter IV of Part IV (transfer values), section 109 (information) or section 170 (levy), or
- (c) any correspondence provisions in force in Great Britain.

(3) Premises are liable to inspection for the purposes of this Article if the inspector has reasonable grounds to believe that—

- (a) members of the scheme are employed there,
- (b) documents relevant to the administration of the scheme are being kept there, or
- (c) the administration of the scheme, or work connected with the administration of the scheme, is being carried out there,

unless the premises are a private dwelling-house not used by, or by permission of, the occupier for the purposes of a trade or business.

(4) An inspector applying for admission to any premises for the purposes of this Article must, if so required, produce his certificate of appointment.

(5) In this Part, “inspector” means a person appointed by the Authority as an inspector.

### **Warrants**

**98.**—(1) A justice of the peace may issue a warrant under this Article if satisfied on complaint on oath given by or on behalf of the Authority that there are reasonable grounds for believing—

- (a) that there are on any premises documents whose production has been required under Article 96(1) or 97(1)(b), or any corresponding provisions in force in Great Britain, and which have not been produced in compliance with the requirement.
- (b) that there are on any premises documents whose production could be so required and that if their production were so required the documents would not be produced but would be removed from the premises, hidden, tampered with or destroyed, or
- (c) that—
  - (i) an offence has been committed under this Order or the Pension Schemes Act, or any enactment in force in Great Britain corresponding to either of them,
  - (ii) a person will do any act which constitutes a misuse or misappropriation of the assets of an occupational pension scheme
  - (iii) a person is liable to pay a penalty under Article 10 or section 164(4) of the Pension Schemes Act, or any enactment in force in Great Britain corresponding to either of them, or
  - (iv) a person is liable to be prohibited from being a trustee of a trust scheme under Article 3,

and that there are on any premises documents which relate to whether the offence has been committed, whether the act will be done, or whether the person is so liable, and whose production could be required under Article 96(1) or 97(1)(b), or any corresponding provisions in force in Great Britain.

(2) A warrant under this Article authorises an inspector—

- (a) to enter the premises specified in the complaint, using such force as is reasonably necessary for the purpose,
- (b) to search the premises and take possession of any documents appearing to be such documents as are mentioned in paragraph (1) or to take in relation to such documents any other steps which appear necessary for preserving them or preventing interference with them,
- (c) to take copies of any such documents, or
- (d) to require any person named in the warrant to provide an explanation of them or to state where they may be found.

(3) A warrant under this Article continues in force until the end of the period of one month beginning with the day on which it is issued.

(4) Any documents of which possession is taken by virtue of a warrant under this Article may be retained—

- (a) for a period of six months, or
- (b) if within that period proceedings to which the documents are relevant are commenced against any person for any offence under this Order or the Pension Schemes Act, or any enactment in force in Great Britain corresponding to either of them, until the conclusion of those proceedings.

### **Information and inspection: penalties**

**99.**—(1) A person who, without reasonable excuse, neglects or refuses to produce a document when required to do so under Article 96 is guilty of an offence.

(2) A person who, without reasonable excuse—

- (a) intentionally delays or obstructs an inspector exercising any power under Article 97,
- (b) neglects or refuses to produce, or secure the production of, any document when required to do so under that Article, or
- (c) neglects or refuses to answer a question or to provide information when so required,

is guilty of an offence.

(3) A person guilty of an offence under paragraph (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) An offence under paragraph (1) or (2)(b) or (c) may be charged by reference to any day or longer period of time; and a person may be convicted of a second or subsequent offence by reference to any period of time following the preceding conviction of the offence.

(5) Any person who knowingly or recklessly provides the Authority with information which is false or misleading in a material particular is guilty of an offence if the information—

- (a) is provided in purported compliance with a requirement under Article 97, or
- (b) is provided otherwise than as mentioned in sub-paragraph (a) but in circumstances in which the person providing the information intends, or could reasonably be expected to know, that it would be used by the Authority for the purpose of discharging their functions under this Order.

(6) Any person who intentionally and without reasonable excuse alters, suppresses, conceals or destroys any document which he is or is liable to be required under Article 96 or 97 to produce to the Authority is guilty of an offence.

(7) Any person guilty of an offence under paragraph (5) or (6) is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum,
- (b) on conviction on indictment, to imprisonment or a fine, or both.

### **Savings for certain privileges, etc.**

**100.**—(1) Nothing in Articles 96 to 99 requires a person to answer any question or give any information if to do so would incriminate that person or that person's spouse.

(2) Nothing in those Articles requires any person to produce any document to the Authority, or to any person acting on their behalf, if he would be entitled to refuse to produce the document in any proceedings in any court on the grounds that it was the subject of legal professional privilege.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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(3) Where any person claims a lien on a document, its production under Article 96 or 97 is without prejudice to the lien.

**Publishing reports: the Authority**

**101.**—(1) The Authority may, if they consider it appropriate to do so in any particular case, publish in such form and manner as they think fit a report of any investigation under this Part and of the result of that investigation.

(2) For the purposes of the law of defamation, the publication of any matter by the Authority is absolutely privileged.