
DRAFT STATUTORY INSTRUMENTS

2005 No.

The Pensions (Northern Ireland) Order 2005

PART II

THE PENSIONS REGULATOR

Gathering information

Warrants

73.—(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 Regulator that there are reasonable grounds for believing—

- (a) that there is on, or accessible from, any premises any document—
 - (i) whose production has been required under Article 67 or 70, or any corresponding provision in force in Great Britain, and
 - (ii) which has not been produced in compliance with that requirement,
- (b) that there is on, or accessible from, any premises any document whose production could be so required and, if its production were so required, the document—
 - (i) would not be produced, but
 - (ii) would be removed, or made inaccessible, from the premises, hidden, tampered with or destroyed, or
- (c) that—
 - (i) an offence has been committed,
 - (ii) a person will do any act which constitutes a misuse or misappropriation of the assets of an occupational pension scheme or a personal pension scheme,
 - (iii) a person is liable to pay a penalty under or by virtue of Article 10 of the 1995 Order (civil penalties) or section 164(4) of the Pension Schemes Act (civil penalties for breach of regulations), or under or by virtue of any provision in force in Great Britain corresponding to either of them, or
 - (iv) a person is liable to be prohibited from being a trustee of an occupational or personal pension scheme under Article 3 of the 1995 Order (prohibition orders), including that Article as it applies by virtue of paragraph 1 of Schedule 1 to the 1999 Order (stakeholder schemes), or under or by virtue of any corresponding provisions in force in Great Britain,

and that there is on, or accessible from, any premises any document which relates 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 67 or 70 or any corresponding provision in force in Great Britain.

- (2) A warrant under this Article shall authorise 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—
 - (i) take possession of any document appearing to be such a document as is mentioned in paragraph (1), or
 - (ii) take in relation to such a document any other steps which appear necessary for preserving it or preventing interference with it,
 - (c) to take copies of any such document,
 - (d) to require any person named in the warrant to provide an explanation of any such document or to state where it may be found or how access to it may be obtained, and
 - (e) in the case of any such document which consists of information which is stored in electronic form and is on, or accessible from, the premises, to require the information to be produced in a form—
 - (i) in which it can be taken away, and
 - (ii) in which it is legible or from which it can readily be produced in a legible form.
- (3) In paragraph (1), any reference in sub-paragraph (a) or (b) to a document does not include any document which is relevant to whether a person has complied with—
- (a) paragraph (3) of Article 215 (information and advice to employees) or regulations under paragraph (4) of that Article, or
 - (b) any provision in force in Great Britain which corresponds to that paragraph (3) or is made under provision corresponding to that paragraph (4),
- and is not relevant to the exercise of the Regulator’s functions for any other reason.
- (4) For the purposes of paragraph (1)(c)(iii), any liability to pay a penalty under—
- (a) Article 10 of the 1995 Order, or
 - (b) any corresponding provision in force in Great Britain,
- which might arise out of a failure to comply with any provision within paragraph (3)(a) or (b) is to be disregarded.
- (5) References in paragraph (2) to such a document as is mentioned in paragraph (1) are to be read in accordance with paragraphs (3) and (4).
- (6) When executing a warrant under this Article, an inspector may be accompanied by such persons as he considers appropriate.
- (7) 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.
- (8) Any document of which possession is taken under this Article may be retained—
- (a) if the document is relevant to proceedings against any person for any offence which are commenced before the end of the retention period, until the conclusion of those proceedings, and
 - (b) otherwise, until the end of the retention period.
- (9) In paragraph (8), “the retention period” means the period comprising—
- (a) the period of 12 months beginning with the date on which possession was taken of the document, and
 - (b) any extension of that period under paragraph (10).

(10) The Regulator may, by a direction made before the end of the retention period (including any extension of it under this paragraph), extend it by such period not exceeding 12 months as the Regulator considers appropriate.