



Social Security Administration (Northern Ireland) Act 1992

1992 CHAPTER 8

PART VII

[^{F1}INFORMATION]

Persons employed or formerly employed in social security administration or adjudication

117 Unauthorised disclosure of information relating to particular persons.

- (1) A person who is or has been employed in social security administration or adjudication is guilty of an offence if he discloses without lawful authority any information which he acquired in the course of his employment and which relates to a particular person.
- (2) A person who is or has been employed in the audit of expenditure or the investigation of complaints is guilty of an offence if he discloses without lawful authority any information—
 - (a) which he acquired in the course of his employment;
 - (b) which is, or is derived from, information acquired or held by or for the purposes of any of the government departments or other bodies or persons referred to in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain; and
 - (c) which relates to a particular person.
- (3) It is not an offence under this section—
 - (a) to disclose information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it; or
 - (b) to disclose information which has previously been disclosed to the public with lawful authority.

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- (4) It is a defence for a person charged with an offence under this section to prove that at the time of the alleged offence—
 - (a) he believed that he was making the disclosure in question with lawful authority and had no reasonable cause to believe otherwise; or
 - (b) he believed that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.
- (5) A person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (6) For the purposes of this section, the persons who are “employed in social security administration or adjudication” are—
 - (a) any person specified in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain;
 - (b) any other person who carries out the administrative work of any of the government departments or other bodies or persons referred to in that Part of that Schedule or that corresponding enactment; and
 - (c) any person who provides, or is employed in the provision of, services to any of those departments, persons or bodies;
 and “employment”, in relation to any such person, shall be construed accordingly.

[^{F1}(6A) Subsection (6) above shall have effect as if any [^{F2}health care professional] who, for the purposes of [^{F3}Article 19 of the Social Security (Northern Ireland) Order 1998], is provided by any person in pursuance of a contract entered into with the Department were specified in Part I of Schedule 4 to this Act]

- (7) For the purposes of subsections (2) and (6) above, any reference in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain to a government department shall be construed in accordance with Part II of that Schedule or any corresponding enactment having effect in Great Britain, and for this purpose “government department” shall be taken to include—
 - ^{F4}(a)
 - [^{F5}(aa) the Scottish Administration;] and
 - (b) the Scottish Courts Administration.

- (8) For the purposes of this section, the persons who are “employed in the audit of expenditure or the investigation of complaints” are—
 - (a) the Comptroller and Auditor General for Northern Ireland;
 - (b) the Northern Ireland Parliamentary Commissioner for Administration;
 - (c) the Northern Ireland Commissioner for Complaints;
 - (d) the Comptroller and Auditor General;
 - (e) the Parliamentary Commissioner for Administration;
 - (f) any member of the staff of the Northern Ireland Audit Office or the National Audit Office;
 - (g) any other person who carries out the administrative work of either of those Offices, or who provides, or is employed in the provision of, services to either of them;

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- ^{F6}^{F7}(ga)
- (gb) a member of the Audit Commission for Local Authorities and the National Health Service in England and Wales and any auditor appointed by that Commission;
- (gc) a member of the Accounts Commission for Scotland and any auditor within the meaning of Part VII of the Local Government (Scotland) Act 1973;
- (h) the Health Service Commissioner for England [^{F8}or Wales] ; ^{F9} . . .
- ^{F10}(ha) a member of the Local Commission for England;
- (hb) a member of the Local Commission for Wales;
- (hc) [^{F11}the Scottish Public Services Ombudsman] ; and]
- (i) any officer of any of the Commissioners [^{F12}or Commissions referred to in paragraphs (b), (c), (e) and (gb) to [^{F13}(hb)] above [^{F14}, or of the Scottish Public Services Ombudsman] and any person assisting an auditor referred to in paragraph (ga), (gb) or (gc) above];

and “employment”, in relation to any such person, shall be construed accordingly.

- (9) For the purposes of this section a disclosure is to be regarded as made with lawful authority if, and only if, it is made—
- (a) in accordance with his official duty—
- (i) by a civil servant; or
- (ii) by a person employed in the audit of expenditure or the investigation of complaints, who does not fall within subsection (8)(g) above;
- (b) by any other person either—
- (i) for the purposes of the function in the exercise of which he holds the information and without contravening any restriction duly imposed by the person responsible; or
- (ii) to, or in accordance with an authorisation duly given by, the person responsible;
- (c) in accordance with any statutory provision or order of a court;
- (d) for the purpose of instituting, or otherwise for the purposes of, any proceedings before a court or before any tribunal or other body or person referred to in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Great Britain; or
- (e) with the consent of the appropriate person;

and in this subsection “the person responsible” means the Department, the Lord Chancellor or any person authorised by the Department or the Lord Chancellor for the purposes of this subsection and includes a reference to “the person responsible” within the meaning of any corresponding enactment having effect in Great Britain.

- (10) For the purposes of subsection (9)(e) above, “the appropriate person” means the person to whom the information in question relates, except that if the affairs of that person are being dealt with—
- (a) under a power of attorney;
- (b) by a controller appointed under Article 101 of the ^{M1}Mental Health (Northern Ireland) Order 1986 or by a receiver appointed under section 99 of the ^{M2}Mental Health Act 1983;
- (c) by a Scottish mental health custodian, that is to say [^{F15}a guardian or other person entitled to act on behalf of the person under the [Adults with Incapacity \(Scotland\) Act 2000 \(asp 4\)](#)]

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- (d) by a mental health appointee, that is to say—
- (i) a person directed or authorised as mentioned in sub-paragraph (a) of rule 38(1) of Order 109 of the Rules of the ^{M3}Supreme Court (Northern Ireland) 1980 or sub-paragraph (a) of rule 41(1) of the ^{M4}Court of Protection Rules 1984; or
 - (ii) a controller ad interim appointed under sub-paragraph (b) of the said rule 38(1) or any receiver ad interim appointed under sub-paragraph (b) of the said rule 41(1),

the appropriate person is the attorney, controller, receiver, custodian or appointee, as the case may be, or, in a case falling within paragraph (a) above, the person to whom the information relates.

Textual Amendments

- F1** S. 117(6A) inserted (3.1.1995) by 1994 c. 40, ss. 76, 82(2)(f), **Sch. 16 para. 25**
- F2** Words in s. 117(6A) substituted (29.6.2007) by Welfare Reform Act (Northern Ireland) 2007 (c. 2), s. 60(2)(c), **Sch. 7 para. 2(2)**
- F3** Words in s. 117(6A) substituted (5.7.1999, 6.9.1999, 5.10.1999, 18.10.1999 and 29.11.1999 for different purposes, otherwise prosp.) by S.I. 1998/1506, (N.I. 10), arts. 1, 78(1), Sch. 6 para. 70; S.R. 1999/310, art. 2(1)(b), **Sch. 1** (with arts. 4, 14); S.R. 1999/371, art. 2(b), **Sch. 1** (with arts. 4, 18); S.R. 1999/407, art. 2(b), **Sch.** (with art. 4); S.R. 1999/428, art. 2(b), **Sch. 1** (with arts. 4, 16) and S.R. 1999/472, art. 2(1), **Sch. 1** (with arts. 20-22) (subject to art. 2(2) of that S.R.)
- F4** S. 117(7)(a) repealed (1.4.1999) by S.I. 1999/671, art. 24(3), **Sch. 9 Pt. I**; S.R. 1999/149, art. 2(c), **Sch. 2** (subject to arts. 3-6 of the said S.R.)
- F5** S. 117(7)(aa) inserted (1.7.1999) by S.I. 1999/1820, arts. 1(2), 4, **Sch. 2 para. 106** (with art. 5); S.I. 1998/3178, **art. 3**
- F6** S. 117(8)(ga) repealed (1.4.2003) by The Audit and Accountability (Northern Ireland) Order 2003 (S.I. 2003/418), art. 1(2), **Sch. 3**
- F7** S. 117(8)(ga)-(gc) inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 4(2)**; S.R. 1997/316, art. 2, **Sch.**
- F8** Words in s. 117(8)(h) substituted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **13(a)**
- F9** Word in s. 117(8)(h) repealed (1.7.1997) by S.I. 1997/1182 (N.I. 11), art. 19(2), **Sch. 2**; S.R. 1997/316, art. 2, **Sch.**
- F10** S. 117(8)(ha)-(hc) inserted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 4(2)(b)**; S.R. 1997/316, art. 2, **Sch**
- F11** Words in s. 117(8)(hc) substituted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **13(b)**
- F12** Words in s. 117(8)(i) substituted (1.7.1997) by S.I. 1997/1182 (N.I. 11), **art. 4(2)(c)**; S.R. 1997/316, art. 2, **Sch.**
- F13** Word in s. 117(8)(i) substituted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **13(c)(i)**
- F14** Words in s. 117(8)(i) inserted (14.7.2004) by The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), arts. 1, **13(c)(ii)**
- F15** Words in s. 117(10)(c) substituted for (i) and (ii) (30.6.2005) by The Adults with Incapacity (Scotland) Act 2000 (Consequential Modifications) (England, Wales and Northern Ireland) Order 2005 (S.I. 2005/1790), arts. 1(1), **4**

Modifications etc. (not altering text)

- C1** S. 117 applied (26.3.2002) by Personal Social Services (Preserved Rights) Act (Northern Ireland) 2002 (c. 5), s. 2(5)
- C2** S. 117 applied (with modifications) (27.11.2006) by The Healthy Start Scheme and Day Care Food Scheme Regulations (Northern Ireland) 2006 (S.R. 2006/478), reg. 1, **Sch. 5**

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C3 S. 117(8)(e) modified (temp. from 1.7.1999) by [S.I. 1999/1351](#), [arts. 1, 3, 17\(2\)\(e\)](#) (with [art. 18](#)); [S.I. 1998/3178](#), [art. 3](#)

Marginal Citations

M1 [S.I. 1986/595 \(N.I. 4\)](#).

M2 [1983 c. 20](#).

M3 [S.R. \(N.I.\) 1980 No. 346](#).

M4 [S.I. 1984/2035](#).

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