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STATUTORY INSTRUMENTS

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**1989 No. 1342**

**The Social Security(Northern Ireland) Order 1989**

*Information and adjudication*

**Unauthorised disclosure of information relating to particular persons**

**21.**—(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 2 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 Article—

- (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.

(4) It is a defence for a person charged with an offence under this Article 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 Article 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 to a fine not exceeding the statutory maximum or to both.

(6) For the purposes of this Article, the persons who are “employed in social security administration or adjudication” are—

- (a) any person specified in Part I of Schedule 2 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.

(7) For the purposes of paragraphs (2) and (6), any reference in Part I of Schedule 2 or 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 the Commissioners of Inland Revenue.

(8) For the purposes of this Article, 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 of 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;
- (h) the Health Service Commissioner for England, Wales or Scotland; and
- (i) any officer of any of the Commissioners referred to in sub-paragraphs (b), (c), (e) or (h);

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

(9) For the purposes of this Article 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 paragraph (8)(g);
- (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 2; or
- (e) with the consent of the appropriate person;

and in this paragraph “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 paragraph 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 paragraph (9)(e), “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 Mental Health (Northern Ireland) Order 1986(1) or by a receiver appointed under section 99 of the Mental Health Act 1983(2),
- (c) by a Scottish mental health custodian, that is to say—
  - (i) a curator bonis, tutor or judicial factor, or
  - (ii) the managers of a hospital acting on behalf of that person under section 94 of the Mental Health (Scotland) Act 1984(3), or
- (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 Supreme Court (Northern Ireland) 1980(4) or any similar appointee in Great Britain, or
  - (ii) a controller ad interim appointed under sub-paragraph (b) of that rule or any similar appointee in Great Britain,

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

(11) This Article shall come into operation—

- (a) on the repeal of section 2 of the Official Secrets Act 1911(5); or
- (b) in accordance with Article 1(3),

whichever is the later.

#### **Disclosure of information by Inland Revenue for social security purposes**

22. In Article 60 of the 1986 Order (information which may be disclosed by the Inland Revenue for social security purposes)—

- (a) in paragraph (1) (information obtained in connection with the assessment or collection of income tax) after the word “obtained” there shall be inserted the words “or held”; and
- (b) in paragraph (2) (which restricts the information which may be so disclosed about self-employed earners to the commencement and cessation of their trade, etc.) after the words “cessation of” there shall be inserted the words “, and employed earners engaged in,”.

#### **Miscellaneous amendments relating to adjudication**

23. The statutory provisions mentioned in Schedule 3 (which relate to adjudication) shall have effect with the amendments there specified.

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(1) 1986 NI 4  
(2) 1983 c. 20  
(3) 1984 c. 36  
(4) S.R. 1980 No. 346  
(5) 1911 c. 28