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STATUTORY INSTRUMENTS

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**1995 No. 3213**

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

**PART II**

**OCCUPATIONAL PENSIONS**

*Disclosure of information: the Authority*

**Restricted information**

**102.**—(1) Except as provided by Articles 104 to 106, restricted information must not be disclosed by the Authority or by any person who receives the information directly or indirectly from them, except with the consent of the person to whom it relates and (if different) the person from whom the Authority obtained it.

(2) For the purposes of this Article and Articles 103 to 106, “restricted information” means any information obtained by the Authority in the exercise of their functions which relates to the business or other affairs of any person, except for information—

- (a) which at the time of the disclosure is or has already been made available to the public from other sources, or
- (b) which is 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.

(3) Any person who discloses information in contravention of this Article is guilty of an offence and liable—

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

**Information supplied to the Authority by corresponding overseas authorities**

**103.**—(1) Subject to paragraph (2), for the purposes of Article 102 “restricted information” includes information which has been supplied to the Authority for the purposes of their functions by an authority which exercises functions corresponding to the functions of the Authority in a country or territory outside the United Kingdom.

(2) Articles 104 to 106 do not apply to such information as is mentioned in paragraph (1), and such information must not be disclosed except—

- (a) as provided in Article 102,
- (b) for the purpose of enabling or assisting the Authority to discharge their functions, or
- (c) with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Order or otherwise.

### Disclosure for facilitating discharge of functions by the Authority

**104.**—(1) Article 102 does not preclude the disclosure of restricted information in any case in which disclosure is for the purpose of enabling or assisting the Authority to discharge their functions.

(2) If, in order to enable or assist the Authority properly to discharge any of their functions, the Authority consider it necessary to seek advice from any qualified person on any matter of law, accountancy, valuation or other matter requiring the exercise of professional skill, Article 102 does not preclude the disclosure by the Authority to that person of such information as appears to the Authority to be necessary to ensure that he is properly informed with respect to the matters on which his advice is sought.

### Disclosure for facilitating discharge of functions by other supervisory authorities

**105.**—(1) Article 102 above does not preclude the disclosure by the Authority of restricted information to any person specified in the first column of the following Table if the Authority consider that the disclosure would enable or assist that person to discharge the functions specified in relation to him in the second column of that Table.

TABLE

Persons	Functions
The Department	Functions under the Charities Act (Northern Ireland) 1964(1) or Part III of the Pension Schemes Act.
The Department of Economic Development.	Functions under Part XV of the Companies (Northern Ireland) Order 1986(2), the Insolvency (Northern Ireland) Order 1989(3) or Part II of the Companies (No.2) (Northern Ireland) Order 1990(4).
The Secretary of State.	Functions under the Insurance Companies Act 1982(5), Part XIV of the Companies Act 1985(6), the Insolvency Act 1986(7), the Financial Services Act 1986(8), Part III of the Companies Act 1989(9) or Part III of the Pension Schemes Act 1993(10).
The Treasury.	Functions under the Financial Services Act 1986.
The Bank of England.	Functions under the Banking Act 1987(11) or any of the functions.
The Charity Commissioners.	Functions under the Charities Act 1993(12).

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- (1) 1964 c. 33 (N.I.).  
(2) 1986 NI 6.  
(3) 1989 NI 19.  
(4) 1990 NI 10.  
(5) 1982 c. 50.  
(6) 1985 c. 6.  
(7) 1986 c. 45.  
(8) 1986 c. 60.  
(9) 1989 c. 40.  
(10) 1993 c. 48.  
(11) 1987 c. 22.  
(12) 1993 c. 10.

Persons	Functions
The Lord Advocate.	Functions under Part I of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 <sup>(13)</sup> .
The Pensions Ombudsman and the Registrar of Occupational and Personal Pension Schemes.	Functions under the Pension Schemes Act or the Pension Schemes Act 1993.
The Compensation Board.	Functions under this Order or any corresponding enactment in force in Great Britain.
The Policyholders Protection Board.	Functions under the Policyholders Protection Act 1975 <sup>(14)</sup> .
The Deposit Protection Board.	Functions under the Banking Act 1987.
The Investor Protection Board.	Functions under the Building Societies Act 1986 <sup>(15)</sup> .
The Friendly Societies Commission.	Functions under the enactments relating to friendly societies.
The Building Societies Commission.	Functions under the Building Societies Act 1986.
The Commissioners of Inland Revenue or their officers.	Functions under the Taxes Act 1988 <sup>(16)</sup> or the Taxation of Chargeable Gains Act 1992 <sup>(17)</sup> .
The Official Receiver for Northern Ireland or the Official Receiver in England and Wales.	Functions under the enactments relating to insolvency.
An inspector appointed by the Department of Economic Development.	Functions under Part XV of the Companies (Northern Ireland) Order 1986 <sup>(18)</sup> .
A recognised professional body (within the meaning of Article 350 of the Insolvency (Northern Ireland) Order 1989 <sup>(19)</sup> ).	Functions in its capacity as such a body under that Order.
A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 <sup>(20)</sup> ).	Functions in its capacity as such a body under that Act.
An inspector appointed by the Secretary of State.	Functions under Part XIV of the Companies Act 1985 <sup>(21)</sup> or section 94 or 177 of the Financial Services Act 1986 <sup>(22)</sup> .
A person authorised to exercise powers under section 43A or 44 of the Insurance Companies Act 1982 <sup>(23)</sup> , section 447 of the Companies	Functions under those sections or that Article.

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<sup>(13)</sup> 1990 c. 40.

<sup>(14)</sup> 1975 c. 75.

<sup>(15)</sup> 1986 c. 53.

<sup>(16)</sup> 1988 c. 1.

<sup>(17)</sup> 1992 c. 12.

<sup>(18)</sup> 1986 NI 6.

<sup>(19)</sup> 1989 NI 19.

<sup>(20)</sup> 1986 c. 45.

<sup>(21)</sup> 1985 c. 6.

<sup>(22)</sup> 1986 c. 60.

<sup>(23)</sup> 1982 c. 50.

Persons	Functions
Act 1985, Article 440 of the Companies (Northern Ireland) Order 1986, section 106 of the Financial Services Act 1986, or section 84 of the Companies Act 1989(24).	
A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986).	Functions under the Financial Services Act 1986.
A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986).	Functions in its capacity as an organisation, body, exchange or clearing house recognised under the Financial Services Act 1986.
A person administering a scheme for compensating investors under section 54 of the Financial Services Act 1986.	Functions under that section.

(2) The Department may after consultation with the Authority—

- (a) by order amend the Table in paragraph (1) by—
  - (i) adding any person exercising regulatory functions and specifying functions in relation to that person,
  - (ii) removing any person for the time being specified in the Table, or
  - (iii) altering the functions for the time being specified in the Table in relation to any person, or
- (b) by order restrict the circumstances in which, or impose conditions subject to which, disclosure is permitted in the case of any person for the time being specified in the Table.

### Other permitted disclosures

**106.**—(1) Article 102 does not preclude the disclosure by the Authority of restricted information to—

- (a) the Department, or
- (b) the Secretary of State,

if the disclosure appears to the Authority to be desirable or expedient in the interests of members of occupational pension schemes or in the public interest.

(2) Article 102 does not preclude the disclosure of restricted information—

- (a) with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Order or otherwise,
- (b) in connection with any other proceedings arising out of—
  - (i) this Order, or
  - (ii) the Pension Schemes Act,
 or any corresponding enactment in force in Great Britain or any proceedings for breach of trust in relation to an occupational pension scheme,

- (c) with a view to the institution of, or otherwise for the purposes of, proceedings under Article 10 or 11 of the Companies (Northern Ireland) Order 1989<sup>(25)</sup> or section 7 or 8 of the Company Directors Disqualification Act 1986<sup>(26)</sup>,
- (d) in connection with any proceedings under the Insolvency (Northern Ireland) Order 1989<sup>(27)</sup> or the Insolvency Act 1986<sup>(28)</sup> which the Authority have instituted or in which they have a right to be heard,
- (e) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of his professional duties by a solicitor, an actuary or an accountant,
- (f) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the discharge by a public servant of his duties,
- (g) for the purpose of enabling or assisting an authority in a country outside the United Kingdom to exercise functions corresponding to those of the Authority under this Order, or
- (h) in pursuance of a Community obligation.

(3) Article 102 does not preclude the disclosure by the Authority of information to the Director of Public Prosecutions for Northern Ireland, the Director of Public Prosecutions, the Lord Advocate, a procurator fiscal or a constable.

(4) Article 102 does not preclude the disclosure by any person mentioned in paragraph (1) or (3) of information obtained by the person by virtue of that paragraph, if the disclosure is made with the consent of the Authority.

(5) Article 102 does not preclude the disclosure by any person specified in the first column of the Table in Article 105(1) of information obtained by the person by virtue of Article 102, if the disclosure is made—

- (a) with the consent of the Authority, and
- (b) for the purpose of enabling or assisting the person to discharge any functions specified in relation to him in the second column of the Table.

(6) The Authority must, before deciding whether to give their consent to such a disclosure as is mentioned in paragraph (4) or (5), take account of any representations made to them by the person seeking to make the disclosure as to the desirability of the disclosure or the necessity for it.

(7) In paragraph (2), “public servant” means an officer or servant of the Crown or of any prescribed authority.

### **Disclosure of information by the Inland Revenue**

**107.**—(1) This Article applies to information held by any person in the exercise of tax functions about any matter relevant, for the purposes of those functions, to tax or duty in the case of an identifiable person (in this Article referred to as “tax information”).

(2) No obligation as to secrecy imposed by section 182 of the Finance Act 1989<sup>(29)</sup> or otherwise shall prevent the disclosure of tax information to the Authority for the purpose of enabling or assisting the Authority to discharge their functions.

(3) Where tax information is disclosed to the Authority by virtue of paragraph (2), it shall, subject to paragraph (4), be treated for the purposes of Article 102 as restricted information.

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(25) 1989 NI 18.  
(26) 1986 c. 46.  
(27) 1989 NI 19.  
(28) 1986 c. 45.  
(29) 1989 c. 26

(4) Articles 104 to 106 do not apply to tax information and such information must not be disclosed except—

- (a) to, or in accordance with authority duly given by, the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, or
- (b) with a view to the institution of, or otherwise for the purposes of, criminal proceedings under this Order or the Pension Schemes Act, or any enactment in force in Great Britain corresponding to either of them.

(5) In this Article, “tax functions” has the same meaning as in section 182 of the Finance Act 1989.