



# Pensions Act 1995

## 1995 CHAPTER 26

### PART I

#### OCCUPATIONAL PENSIONS

##### *Gathering information: the Authority*

#### **98 Provision of information**

- (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 subsection (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 section and sections 99 to 101, "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.

#### **99 Inspection of premises**

- (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,

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- (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 subsection (1), “the regulatory provisions” means provisions made by or under—
- (a) the provisions of this Part, other than the following provisions: sections 51 to 54, 62 to 65 and 110 to 112,
  - (b) the following provisions of the Pension Schemes Act 1993: section 6 (registration), Chapter IV of Part IV (transfer values), section 113 (information) or section 175 (levy), or
  - (c) any corresponding provisions in force in Northern Ireland.
- (3) Premises are liable to inspection for the purposes of this section 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 section must, if so required, produce his certificate of appointment.
- (5) In this Part “inspector” means a person appointed by the Authority as an inspector.

## **100 Warrants**

- (1) A justice of the peace may issue a warrant under this section if satisfied on information 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 section 98(1) or 99(1)(b), or any corresponding provisions in force in Northern Ireland, 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 Act or the Pension Schemes Act 1993, or any enactment in force in Northern Ireland 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,

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- (iii) a person is liable to pay a penalty under section 10 of this Act or section 168(4) of the Pension Schemes Act 1993, or any enactment in force in Northern Ireland corresponding to either of them, or
- (iv) a person is liable to be prohibited from being a trustee of a trust scheme under section 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 section 98(1) or 99(1)(b) or any corresponding provisions in force in Northern Ireland.

- (2) A warrant under this section shall authorise an inspector—
  - (a) to enter the premises specified in the information, 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 subsection (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 section shall continue 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 section 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 Act or the Pension Schemes Act 1993, or any enactment in force in Northern Ireland corresponding to either of them, until the conclusion of those proceedings.
- (5) In the application of this section in Scotland—
  - (a) the reference to a justice of the peace is to be read as a reference to a justice within the meaning of the Criminal Procedure (Scotland) Act 1975, and
  - (b) the references to information are to be read as references to evidence.

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

- (1) A person who, without reasonable excuse, neglects or refuses to produce a document when required to do so under section 98 is guilty of an offence.
- (2) A person who without reasonable excuse—
  - (a) intentionally delays or obstructs an inspector exercising any power under section 99,
  - (b) neglects or refuses to produce, or secure the production of, any document when required to do so under that section, or
  - (c) neglects or refuses to answer a question or to provide information when so required,is guilty of an offence.

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- (3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (4) An offence under subsection (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 section 99, or
  - (b) is provided otherwise than as mentioned in paragraph (a) above 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 Act.
- (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 section 98 or 99 to produce to the Authority is guilty of an offence.
- (7) Any person guilty of an offence under subsection (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.

## **102 Savings for certain privileges etc**

- (1) Nothing in sections 98 to 101 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 sections 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 or, in Scotland, that it contained a confidential communication made by or to an advocate or solicitor in that capacity.
- (3) Where a person claims a lien on a document, its production under section 98 or 99 shall be without prejudice to the lien.

## **103 Publishing reports**

- (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 shall be absolutely privileged.