



Pensions Act 2004

2004 CHAPTER 35

PART 1

THE PENSIONS REGULATOR

Gathering information

78 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 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 section 72 or 75, or any corresponding provision in force in Northern Ireland, 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 section 10 of the Pensions Act 1995 (c. 26) (civil penalties) or section 168(4) of the Pension Schemes Act 1993 (c. 48) (civil penalties for breach of regulations), or under or by virtue of any provision in force in Northern Ireland corresponding to either of them, or

Status: This is the original version (as it was originally enacted).

- (iv) a person is liable to be prohibited from being a trustee of an occupational or personal pension scheme under section 3 of the Pensions Act 1995 (prohibition orders), including that section as it applies by virtue of paragraph 1 of Schedule 1 to the Welfare Reform and Pensions Act 1999 (c. 30) (stakeholder schemes), or under or by virtue of any corresponding provisions in force in Northern Ireland, 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 section 72 or 75 or any corresponding provision 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—
 - (i) take possession of any document appearing to be such a document as is mentioned in subsection (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 subsection (1), any reference in paragraph (a) or (b) to a document does not include any document which is relevant to whether a person has complied with—
- (a) subsection (3) of section 238 (information and advice to employees) or regulations under subsection (4) of that section, or
 - (b) any provision in force in Northern Ireland which corresponds to that subsection (3) or is made under provision corresponding to that subsection (4), and is not relevant to the exercise of the Regulator’s functions for any other reason.
- (4) For the purposes of subsection (1)(c)(iii), any liability to pay a penalty under—
- (a) section 10 of the Pensions Act 1995 (c. 26), or
 - (b) any corresponding provision in force in Northern Ireland,
- which might arise out of a failure to comply with any provision within subsection (3) (a) or (b) is to be disregarded.
- (5) References in subsection (2) to such a document as is mentioned in subsection (1) are to be read in accordance with subsections (3) and (4).
- (6) When executing a warrant under this section, an inspector may be accompanied by such persons as he considers appropriate.

- (7) A warrant under this section 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 section 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 subsection (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 subsection (10).
- (10) The Regulator may, by a direction made before the end of the retention period (including any extension of it under this subsection), extend it by such period not exceeding 12 months as the Regulator considers appropriate.
- (11) 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 the sheriff, and
 - (b) the references in subsections (1) and (2)(a) to information are to be read as references to evidence.