

## SCHEDULES

### SCHEDULE 6

Section 40

#### NORTHERN IRELAND: INFORMATION ABOUT FINANCIAL RESOURCES

##### *Obtaining information*

- 1 (1) The relevant authority may make an information request to—
  - (a) the Secretary of State,
  - (b) a relevant Northern Ireland Department, or
  - (c) the Commissioners for Her Majesty’s Revenue and Customs (“the Commissioners”).
- (2) An information request may be made under this paragraph only for the purposes of facilitating a determination about an individual’s financial resources for the purposes of—
  - (a) the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 ([S.I. 1981/228 \(N.I. 8\)](#)), or
  - (b) the Access to Justice (Northern Ireland) Order 2003 ([S.I. 2003/435 \(N.I. 10\)](#)).
- (3) An information request made to the Secretary of State or a relevant Northern Ireland Department under this paragraph may request the disclosure of some or all of the following information—
  - (a) a relevant individual’s full name and any previous names;
  - (b) a relevant individual’s address and any previous addresses;
  - (c) a relevant individual’s date of birth;
  - (d) a relevant individual’s national insurance number;
  - (e) a relevant individual’s benefit status at a time specified in the request;
  - (f) information of a prescribed description.
- (4) An information request made to the Commissioners under this paragraph may request the disclosure of some or all of the following information—
  - (a) whether or not a relevant individual is employed or was employed at a time specified in the request;
  - (b) the name and address of the employer;
  - (c) whether or not a relevant individual is carrying on a business, trade or profession or was doing so at a time specified in the request;
  - (d) the name under which it is or was carried on;
  - (e) the address of any premises used for the purposes of carrying it on;
  - (f) a relevant individual’s national insurance number;
  - (g) a relevant individual’s benefit status at a time specified in the request;
  - (h) information of a prescribed description.

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*Status: This is the original version (as it was originally enacted).*

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- (5) The information that may be prescribed under sub-paragraphs (3)(f) and (4)(h) includes, in particular, information relating to—
- (a) prescribed income of a relevant individual for a prescribed period, and
  - (b) prescribed capital of a relevant individual.
- (6) Information may not be prescribed under sub-paragraph (4)(h) without the Commissioners' consent.
- (7) The Secretary of State, the relevant Northern Ireland Departments and the Commissioners may disclose to the relevant authority information specified in an information request made under this paragraph.
- (8) In this paragraph—
- “benefit status”, in relation to an individual, means whether or not the individual is in receipt of a prescribed benefit or benefits and, if so—
- (a) which benefit or benefits the individual is receiving,
  - (b) whether the individual is entitled to the benefit or benefits alone or jointly,
  - (c) in prescribed cases, the amount the individual is receiving by way of the benefit (or each of the benefits) (“the benefit amount”), and
  - (d) in prescribed cases, where the benefit consists of a number of elements, what those elements are and the amount included in respect of each element in calculating the benefit amount;
- “financial resources”, in relation to an individual, includes an individual's means, disposable income and disposable capital;
- “the relevant authority” means—
- (a) a prescribed person, or
  - (b) in relation to circumstances for which no person is prescribed, the chief executive of the Northern Ireland Legal Services Commission;
- “a relevant individual”, in relation to an information request under this paragraph for the purposes of a determination about an individual's financial resources, means—
- (a) that individual, and
  - (b) any other individual whose financial resources are or may be relevant for the purposes of the determination;
- “relevant Northern Ireland Department” means the Department for Social Development in Northern Ireland or the Department of Finance and Personnel in Northern Ireland.

*Restrictions on disclosing information*

- 2 (1) A person to whom information is disclosed under paragraph 1 of this Schedule or this sub-paragraph may disclose the information to any person to whom its disclosure is necessary or expedient in connection with facilitating a determination described in paragraph 1(2).
- (2) A person to whom such information is disclosed must not—
- (a) disclose the information other than in accordance with sub-paragraph (1), or
  - (b) use the information other than for the purpose of facilitating a determination described in paragraph 1(2).

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- (3) Sub-paragraph (2) does not prevent—
- (a) the disclosure of information in accordance with an enactment or an order of a court,
  - (b) the disclosure of information for the purposes of the investigation or prosecution of an offence (or suspected offence) under the law of England and Wales or Northern Ireland or any other jurisdiction, except as otherwise prescribed,
  - (c) the disclosure of information for the purposes of instituting, or otherwise for the purposes of, proceedings before a court, or
  - (d) the disclosure of information which has previously been lawfully disclosed to the public.
- (4) A person who discloses or uses information in contravention of this paragraph is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both), and
    - (ii) in Northern Ireland, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum (or both).
- (5) It is a defence for a person charged with an offence under this paragraph to prove that the person reasonably believed that the disclosure or use was lawful.
- (6) In this paragraph “enactment” includes—
- (a) an enactment contained subordinate legislation (within the meaning of the Interpretation Act 1978), and
  - (b) an enactment contained in, or in an instrument made under, an Act or Measure of the National Assembly for Wales or Northern Ireland legislation.
- (7) In relation to an offence under this paragraph committed before the commencement of section 154(1) of the Criminal Justice Act 2003, the reference in sub-paragraph (4) (b)(i) to 12 months has effect as if it were a reference to 6 months.

*Power to make consequential and supplementary provision etc*

- 3 (1) The Department of Justice in Northern Ireland may by regulations make consequential, supplementary, incidental or transitional provision in relation to this Schedule extending to Northern Ireland.
- (2) The regulations may, in particular—
- (a) amend, repeal, revoke or otherwise modify Northern Ireland legislation passed before this Schedule comes into force or an instrument made under such legislation, and
  - (b) include transitory or saving provision.

*Regulations*

- 4 (1) In this Schedule “prescribed” means prescribed by regulations made by the Department of Justice in Northern Ireland.

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- (2) The powers under this Schedule to make regulations are exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 ([S.I. 1979/1573 \(N.I. 12\)](#)).
- (3) Regulations under this Schedule are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954, subject to sub-paragraph (4).
- (4) The following regulations may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Northern Ireland Assembly—
  - (a) the first regulations under paragraph 1, and
  - (b) regulations under paragraph 3 that amend or repeal Northern Ireland legislation (whether alone or with other provision).
- (5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment (as defined in that Act).
- (6) Subsections (1) to (3) of section 41 of this Act apply in relation to regulations made under paragraph 1 or 2 of this Schedule as they apply in relation to regulations made by the Lord Chancellor under this Part.