



# Social Security Administration Act 1992

## 1992 CHAPTER 5

### PART VII

#### PROVISION OF INFORMATION

*Persons employed or formerly employed in social security administration or adjudication*

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

- (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 4 to this Act or Part I of Schedule 3 to the Northern Ireland Administration Act; and
  - (c) which relates to a particular person.
- (3) It is not an offence under this section—
  - (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 section 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

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*Status: This is the original version (as it was originally enacted).*

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- (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 section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both; or
  - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.
- (6) For the purposes of this section, the persons who are “employed in social security administration or adjudication” are—
- (a) any person specified in Part I of Schedule 4 to this Act or in any corresponding enactment having effect in Northern Ireland;
  - (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 subsections (2) and (6) above, any reference in Part I of Schedule 4 to this Act or any corresponding enactment having effect in Northern Ireland to a government department shall be construed in accordance with Part II of that Schedule or any corresponding enactment having effect in Northern Ireland, and for this purpose “government department” shall be taken to include—
- (a) the Commissioners of Inland Revenue; and
  - (b) the Scottish Courts Administration.
- (8) For the purposes of this section, the persons who are “employed in the audit of expenditure or the investigation of complaints” are—
- (a) the Comptroller and Auditor General;
  - (b) the Comptroller and Auditor General for Northern Ireland;
  - (c) the Parliamentary Commissioner for Administration;
  - (d) the Northern Ireland Parliamentary Commissioner for Administration;
  - (e) the Health Service Commissioner for England;
  - (f) the Health Service Commissioner for Wales;
  - (g) the Health Service Commissioner for Scotland;
  - (h) the Northern Ireland Commissioner for Complaints;
  - (i) any member of the staff of the National Audit Office or the Northern Ireland Audit Office;
  - (j) 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; and
  - (k) any officer of any of the Commissioners referred to in paragraphs (c) to (h) above;
- and “employment”, in relation to any such person, shall be construed accordingly.
- (9) For the purposes of this section 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—

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- (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 subsection (8)(j) above;
- (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 enactment 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 4 to this Act or Part I of Schedule 3 to the Northern Ireland Administration Act; or
- (e) with the consent of the appropriate person;

and in this subsection “the person responsible” means the Secretary of State, the Lord Chancellor or any person authorised by the Secretary of State or the Lord Chancellor for the purposes of this subsection and includes a reference to “the person responsible” within the meaning of any corresponding enactment having effect in Northern Ireland.

- (10) For the purposes of subsection (9)(e) above, “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 receiver appointed under section 99 of the Mental Health Act 1983 or a controller appointed under Article 101 of the Mental Health (Northern Ireland) Order 1986;
  - (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; 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 41(1) of the Court of Protection Rules 1984 or sub-paragraph (a) of rule 38(1) of Order 109 of the Rules of the Supreme Court (Northern Ireland) 1980; or
    - (ii) a receiver ad interim appointed under sub-paragraph (b) of the said rule 41(1) or a controller ad interim appointed under sub-paragraph (b) of the said rule 38(1),

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