
STATUTORY INSTRUMENTS

1988 No. 595 (N.I. 3)

NORTHERN IRELAND

**The Statistics of Trade and Employment
(Northern Ireland) Order 1988**

Made - - - - *23rd March 1988*
Coming into operation *24th May 1988*

At the Court at Buckingham Palace, the 23rd day of March 1988
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:
Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Statistics of Trade and Employment (Northern Ireland) Order 1988.

(2) This Order shall come into operation on the expiration of two months from the day on which it is made.

Interpretation

2.—(1) Subject to paragraph (5), the Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“census” means a census under this Order;

“computer” means an electronic device for storing, processing or retrieving information;

“the Department” means the Department of Economic Development;

“Government department” means a Northern Ireland department or a department of the Government of the United Kingdom;

“plant” includes any machinery, equipment or appliance;

“prescribed” means prescribed by order made by the Department;

“public body” means a body established under a statutory provision;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954;

“undertaking” means—

- (a) any undertaking by way of trade or business, whether or not the trade or business is carried on for profit; and
- (b) any other undertaking providing employment in respect of which Class 1 contributions are payable under the Social Security (Northern Ireland) Act 1975.

(3) For the purposes of this Order, where an undertaking is wholly or partly carried on by means of branches situated at several premises, a Northern Ireland department may agree with the persons carrying on the undertaking that for the purposes of all or any of the provisions of this Order a separate undertaking shall be deemed to be carried on at all or any of the branches by the branch manager or such other person as may be specified in the agreement, and any such agreement may contain such supplemental provisions as may be expedient for giving effect thereto and shall continue in force for such term and shall be subject to such provisions as to variation and revocation as may be specified in the agreement.

(4) References in this Order to articles shall be construed as including references to substances, plant, vehicles, vessels and animals, and as including references to water, gas and electricity.

(5) In its application to the service of documents under this Order section 24 of the Interpretation Act (Northern Ireland) 1954 shall have effect with the omission of the word “registering” in subsection (1).

Census of production, distribution and services

3.—(1) For the purpose of providing at intervals general surveys of the state of trade and business, the Department shall—

- (a) in each year take a census of production;
- (b) in any prescribed year take a census of distribution and other services.

(2) Any year prescribed by an order under paragraph (1)(b) shall be a calendar year beginning not less than twelve months after the date on which the order comes into operation.

(3) A census may either—

- (a) be taken so as to cover all undertakings in the field of production or distribution or other services (as the case may be), or
- (b) be confined to such classes or descriptions of those undertakings as may be prescribed.

(4) Subject to paragraph (5), any person carrying on an undertaking may be required to furnish returns for the purposes of a census.

(5) The Department may by order provide for exempting from the obligation to furnish returns under paragraph (4), either wholly or to the prescribed extent, and either unconditionally or subject to the prescribed conditions, any persons or any prescribed class or description of persons.

(6) The matters about which a person may be required to furnish returns for the purposes of a census shall be the matters set out in the Schedule.

(7) In taking a census the Department shall, subject to paragraph (8), require returns to be furnished with respect to the calendar year next preceding the date of the census.

(8) The Department may make arrangements for allowing a person for whom it would be inconvenient to furnish returns with respect to the calendar year referred to in paragraph (7), to furnish returns with respect to some other period of twelve months.

Returns for the purposes of census

4.—(1) The Department may, subject to the provisions of this Order, prepare and issue such forms and instructions as it deems necessary for the taking of a census; but nothing in this Order shall be construed as preventing the use, in connection with any such census, of any form or instruction issued by any department of the Government of the United Kingdom under any Act of the Parliament of the United Kingdom containing provisions similar to the provisions of this Order.

(2) A person shall not be required to furnish returns for the purposes of a census except in pursuance of a notice in writing from the Department requiring him to do so; and the Department shall issue, with the notice, the forms which that person is required to complete.

(3) A person required to furnish returns for the purposes of a census shall, on or before such day, being not less than two months after the service of the said notice, as may be specified therein, comply with that requirement in such manner as may be so specified.

(4) If the Department publishes, by advertisement in the Belfast Gazette and in such newspapers as may appear to the Department to be sufficient for notifying the persons concerned, a list of any classes or descriptions of undertakings in relation to which returns will be required by the Department for the purposes of a particular census, it shall be the duty of every person carrying on an undertaking of any such class or description as aforesaid who has not received a notice under paragraph (2) to inform such person as may be specified in the advertisement, within such period, being not less than twenty-one days after the date of the advertisement, as may be specified therein, that he is carrying on such an undertaking as aforesaid and to give to that person such prescribed particulars of the undertaking as may be so specified.

Power of Northern Ireland departments to obtain information

5.—(1) For the purpose of obtaining the information necessary for the appreciation of economic trends and the provision of a statistical service for industry and for the discharge by Government departments of their functions, any Northern Ireland department may, by notice in writing served on any person carrying on an undertaking, require that person to furnish, in such form and manner and within such time as may be specified in the notice, such periodical or other estimates or returns about such of the matters set out in the Schedule as may be so specified.

(2) A notice under paragraph (1) shall state that it is served under this Article and the main purpose for which the estimates or returns are required.

Advisory committee

6.—(1) The Head of the Department shall appoint a committee to advise Northern Ireland departments in relation to—

(a) the exercise by such departments of their functions under this Order; and

(a) such other matters as may be referred to it by the Department

(2) The committee shall consist of a chairman and not less than six other members.

(3) Before appointing the committee the Head of the Department shall consult with such bodies or persons as appear to him to be appropriate.

(4) The members of the committee shall hold office for such period and subject to such conditions as the Head of the Department may determine.

(5) The committee shall meet at least once a year.

(6) The quorum and, subject to paragraph (5), the arrangements for meetings of the committee shall be such as the committee may determine.

(7) The Department may pay to members of the committee such travelling and other expenses as the Department, with the consent of the Department of Finance and Personnel, may determine.

(9) Before requiring any returns or estimates to be furnished under this Order a Northern Ireland department shall consult the committee as to—

- (a) the matters about which, the extent to which, and the form in which, persons carrying on undertakings are to be required to furnish estimates or returns;
- (b) the purposes for which the returns or estimates furnished in pursuance of the requirement are to be used; and
- (c) the extent (if any) to which such returns or estimates are to be disclosed.

Disclosure of information

7.—(1) No individual estimate or return, and no information relating to an individual undertaking, obtained by a Northern Ireland department under the foregoing provisions of this Order or under the Statistics of Trade Act (Northern Ireland) 1949 shall, without the previous consent in writing of the person carrying on the undertaking which is the subject of the estimate, return or information, be disclosed by any person except—

- (a) in accordance with directions given by the Head of that Northern Ireland department—
 - (i) to another Government department for the purpose of the exercise by that department of its functions;
 - (ii) to a Community institution in pursuance of a Community obligation;
 - (iii) to a public body for the purpose of the exercise by that body of its functions;
 - (iv) to a consultant appointed by a Government department or by a public body for the purpose of enabling that consultant to advise, or report to, that Government department or public body on any matter related to the exercise by that department or body of its functions;
- (b) for the purposes of any proceedings for an offence under this Order or any report of those proceedings.

(2) If any information to be obtained for the purposes of a census is also obtainable under any other statutory provision which restricts the disclosure of information obtained thereunder, and the Department is of opinion that similar restrictions should be applied to any information to be obtained for the purposes of the census, the Department shall by order provide for the application without modifications or with such adaptations or modifications as it thinks fit, of those restrictions to the information to be so obtained, or any part thereof, in addition to the restrictions imposed by this Article.

(3) Without prejudice to the provisions of paragraph (2), if it appears to the Department that—

- (a) the nature of the information to be obtained for the purposes of a census; or
- (b) the nature of the undertakings to be covered by a census, would make it desirable to impose restrictions on the disclosure of information obtained by means of the census additional to the restrictions imposed by this Article, the Department may by order prohibit the disclosure of information relating to particular undertakings obtained by means of the census, or any part of that information, except to such persons or for such purposes as may be specified in the order.

(4) Nothing in paragraph (1) or in any order under paragraph (2) or (3) shall prevent or penalise the disclosure of any estimate, return or information to a person engaged in maintaining, repairing or advising on the operation of a computer in which that estimate, return or information is stored.

(5) The following provisions shall have effect with respect to any report, summary or other communication to the public of information obtained under the foregoing provisions of this Order or under the Statistics of Trade Act (Northern Ireland) 1949—

- (a) no such report, summary or communication shall disclose the number of returns received with respect to the production of any article if that number is less than five;
- (b) subject to paragraph (6), any such report, summary or communication shall be so arranged as to prevent any particulars published therein from being identified as being particulars relating to any individual person or undertaking except with the previous consent in writing of that person or the person carrying on that undertaking, as the case may be.

(6) Paragraph (5)(b) shall not prevent the disclosure by a Northern Ireland department of the total quantity or value of any articles produced, sold or delivered, but before disclosing any such total that department shall have regard to any representations made to it by any person who alleges that the disclosure thereof would enable particulars relating to him or to an undertaking carried on by him to be deduced from the total disclosed.

Offences

8.—(1) Any person required to furnish estimates, returns, particulars or information under this Order who fails to furnish those estimates, returns, or particulars, or that information shall, unless he proves that he had reasonable excuse for such failure, be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) Where the failure in respect of which a person is convicted under paragraph (1) is continued after the conviction, he shall be guilty of a further offence under that paragraph.

(3) Any person who in purported compliance with a requirement to furnish estimates, returns, particulars or information under this Order knowingly or recklessly makes a statement in those returns, estimates or particulars, or in giving that information, which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(4) Any person who discloses any individual estimate or return or any information contrary to the provisions of Article 7 or of any order under that Article shall be guilty of an offence.

(5) Any person to whom an individual estimate or return or any information relating to an individual undertaking is disclosed under Article 7(1)(a) or (4) who uses that estimate, return or information—

- (a) for any purpose other than the purpose for which it was disclosed to him; or in contravention of any directions which were—
 - (i) given under Article 7(1)(a) in connection with the disclosure of that estimate, return or information; and
 - (ii) notified to him in writing,

shall be guilty of an offence.

A person guilty of an offence under paragraph (4) or (5) shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum, or to both;
- (b) on conviction or indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

Orders

9.—(1) The Department may by order make provision—

- (a) for amending the Schedule by deleting any of the matters set out therein or by adding to those matters any other matter;
 - (b) for prescribing anything which under this Order is to be prescribed;
 - (c) generally for carrying the purposes of this Order into effect.
- (2) Except as provided by paragraph (3), all orders under this Order shall be subject to negative resolution.
- (3) An order shall not be made under—
- (a) Article 3(1)(b);
 - (b) Article 7(2) or (3); or
 - (c) paragraph (1)(a), unless a draft thereof has been laid before, and approved by resolution of, the Assembly.

Repeals and revocations

- 10.**—(1) The following statutory provisions are hereby repealed, namely—
- (a) the Statistics of Trade Act (Northern Ireland) 1949;
 - (b) the Statistics of Trade (Amendment) Act (Northern Ireland) 1971;
 - (c) in the Health and Safety at Work (Northern Ireland) Order 1978, Article 29(2) to (4) and in Article 31(1)(j) the words “29(4) or”.
- (2) The following statutory provisions are hereby revoked, namely—
- (a) the European Communities (Statistics of Trade) Order (Northern Ireland) 1972;
 - (b) the Statistics of Trade (Amendment) Order (Northern Ireland) 1975;
 - (c) the Statistics of Trade (Amendment) Order (Northern Ireland) 1978.

G. I. de Deney
Clerk of the Privy Council

SCHEDULE

Articles 3(6), 5(1) and 9(1).

MATTERS ABOUT WHICH PERSONS MAY BE REQUIRED TO FURNISH ESTIMATES OR OR RETURNS UNDER THIS ORDER

- The nature of the undertaking (including its association with other undertakings) and the date of its acquisition;
- the persons employed or normally employed (including working proprietors), the nature of their employment, their remuneration and the hours worked;
- the output, sales, deliveries and services provided;
- the articles acquired or used, orders, stocks and work in progress;
- the outgoings and costs (including work given out to contractors) and capital expenditure;
- the receipts of and debts owed to the undertaking;
- the power used or generated;
- the assets, the plant, the premises occupied and the liabilities of the undertaking (including the acquisition and disposal of those assets and that plant and the incurring or discharge of those liabilities);
- the Value Added Tax registration number of the undertaking;
- the transport charges;
- the goods vehicles operated by the undertaking, the nature of their operation, places of loading and unloading, journeys undertaken and goods carried;
- the value of advances made and payments received on credit agreements where the total amount of the loan is fixed at the outset of the agreement;
- the persons employed and the value of work done in pursuance of any building or civil engineering contract which is being carried out by the undertaking (including the persons employed and the value of work done by any undertakings which have subcontracted with the undertaking in respect of that contract);
- the names and addresses of undertakings which have subcontracted with the undertaking in respect of any building or civil engineering contract.

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order re-enacts with amendments the Statistics of Trade Act (Northern Ireland) 1949. The principal amendments are—

- (a) to require returns and estimates to be furnished in respect of undertakings which provide employment;
- (b) to replace the requirement for Departments to consult a Trade Statistics Consultative Committee before requiring returns or estimates to be furnished with a requirement to consult a new committee appointed under the order;

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

- (c) to revise certain offences relating to the unauthorised disclosure of information and to remove the requirement for officers of Government Departments to make declarations against unauthorised disclosure;
- (d) to increase fines;
- (e) to authorise the disclosure of information obtained under the Order to public bodies, to consultants employed by Government departments or public bodies and to certain computer personnel and to penalise the misuse of such information by a person to whom it is disclosed;
- (f) to revise the list of matters about which persons may be required to give information.
- (g) to omit the requirement for a report on each census of production to be laid before the Assembly.