

Status: Point in time view as at 17/09/2012.

Changes to legislation: There are currently no known outstanding effects for the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011, Cross Heading: Investigatory powers of the Commissioner. (See end of Document for details)



2011 CHAPTER 17

PART 2

THE NORTHERN IRELAND ASSEMBLY COMMISSIONER FOR STANDARDS

Investigatory powers of the Commissioner

Power to call for witnesses and documents

28.—(1) In carrying out any investigation under this Part the Commissioner may require any person—

- (a) to attend before the Commissioner for the purpose of giving evidence, or
- (b) to produce to the Commissioner documents in the custody or under the control of that person,

relating to the investigation.

(2) The Commissioner may not impose such a requirement upon any person whom the Assembly could not require, under section 44 of the 1998 Act, to attend its proceedings for the purpose of giving evidence or to produce any document for the same purpose.

(3) A person is not obliged under this section to answer any question or produce any document which the person would be entitled to refuse to answer or produce in proceedings in a court in Northern Ireland.

(4) For the purposes of this section—

- (a) a person shall be taken to comply with a requirement to produce a document if that person produces a copy of the document or an extract of the relevant part of the document;

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(b) “document” means anything in which information is recorded in any form; and

(c) references to producing a document are to producing the information recorded in it in a visible and legible form.

(5) The Commissioner may agree the payment to persons giving evidence, or producing documents relating to an investigation (whether or not as the result of a requirement imposed under this section), of such reasonable allowances and expenses as the Commissioner may determine.

Commencement Information

II S. 28 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

Witnesses and documents: notice

29.—(1) The Commissioner shall impose any requirement under section 28 on a person by giving that person notice in writing specifying—

(a) the time and place at which the person is to attend and the particular matters relating to which the person is required to give evidence;

(b) the documents, or types of documents, which the person is to produce, the date by which they are to be produced and the particular matters to which they are to relate.

(2) Notice under subsection (1) shall be given—

(a) in the case of an individual, by sending it in accordance with subsection (3) addressed to the person at the person's usual or last known address or, where the person has given an address for service of the notice, at that address;

(b) in any other case, by sending it in accordance with subsection (3) addressed to the person at the person's registered or principal office.

(3) A notice is sent in accordance with this subsection if it is sent—

(a) by a registered post service (within the meaning of the Postal Services Act 2000 (c. 26)); or

(b) by a postal service which provides for its delivery by post to be recorded.

Commencement Information

II S. 29 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

Witnesses: oaths

30 The Commissioner may—

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- (a) administer an oath to any person giving evidence to the Commissioner; and
- (b) require that person to take an oath.

Commencement Information

I3 S. 30 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

Offences

31.—(1) Subject to section 28(3), a person to whom a notice has been given under section 29(1) who—

- (a) refuses or fails to attend before the Commissioner as required by the notice,
- (b) refuses or fails, when attending before the Commissioner as required by the notice, to answer any question concerning any matter specified in the notice,
- (c) intentionally alters, suppresses, conceals or destroys any document required to be produced by the notice, or
- (d) refuses or fails to produce any such document,

is guilty of an offence.

(2) Any person who refuses to take an oath when required to do so under section 30 is guilty of an offence.

(3) It is a defence for a person charged with an offence under subsection (1) (a), (b) or (d) or subsection (2) to prove that the person had a reasonable excuse for the refusal or failure.

(4) A person guilty of an offence under this section is liable on summary conviction—

- (a) to a fine not exceeding level 5 on the standard scale; or
- (b) to imprisonment for a period not exceeding 3 months.

Commencement Information

I4 S. 31 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

Protection from defamation actions

32.—(1) For the purposes of the law of defamation, any statement made in pursuance of the purposes of this Part—

- (a) by the Commissioner shall have absolute privilege; and
- (b) to the Commissioner shall have qualified privilege.

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(2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996 (c. 31).

Commencement Information

I5 S. 32 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

Restriction on disclosure of information

33.—(1) Subject to subsection (2), the Commissioner, or any person who has (at any time and in any capacity) assisted the Commissioner in the discharge of functions under this Act, shall not disclose any information contained in any complaint or referral, or any information which is furnished to or obtained by the Commissioner or such person in the course of, or for the purposes of, an investigation under this Part.

- (2) Such information may be disclosed for the purpose of—
- (a) enabling or assisting the Commissioner to discharge any function imposed or conferred on the Commissioner by virtue of any provision of—
 - (i) this Part;
 - (ii) any other statutory provision;
 - (iii) the standing orders of the Assembly; or
 - (iv) any direction or other requirement imposed by the Assembly; or
 - (b) the investigation or prosecution of any offence or suspected offence.

Commencement Information

I6 S. 33 in operation at 17.9.2012 by S.R. 2012/334, art. 2(c)

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