



2016 CHAPTER 22

PART 5

Supplementary

Information

Powers to require information and documents: introductory

70. The powers conferred by sections 71, 72 and 73 are exercisable by a council for the purposes of—

- (a) enabling or assisting the council to exercise any function conferred on it by this Act in relation to any premises;
- (b) investigating whether any offence has been committed under this Act in relation to any premises.

Power to obtain information from persons connected to premises

71.—(1) The council may, by serving notice on a relevant person, require the person to provide the following information in writing to the council—

- (a) the nature of the person's estate (if any) in premises specified in the notice,
- (b) the name and address of any other person known to that person as having an estate in the premises, and
- (c) any other information about the premises that the council may reasonably request and which is in the person's custody or under the person's control.

(2) Where a notice under this section is served—

- (a) on a person who appears to the council to be the occupier of premises, and

- (b) for the purpose of enabling or assisting the council to decide whether the premises are, or contain, an HMO,

the notice may also require the person to disclose the relationship (if any) between that person and any other occupants.

(3) A notice under this section must—

- (a) specify a date, not less than 21 days after the date on which the notice is served, by which the information must be provided,
- (b) specify a person to whom the information must be provided, and
- (c) include information about the possible consequences of not complying with the notice.

(4) Information provided by a person in response to a notice under this section may be used in criminal proceedings as evidence against the person only where subsection (5) or (6) applies.

(5) This subsection applies where the person is being prosecuted for an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).

(6) This subsection applies where the person is being prosecuted for any other offence and—

- (a) in giving evidence the person makes a statement inconsistent with the information provided in response to the notice, and
- (b) evidence relating to that information is adduced, or a question about it is asked, by or on behalf of the person.

(7) In this section “relevant person” means any person who—

- (a) is, or is proposed to be, the holder of an HMO licence in respect of the premises,
- (b) is, or is proposed to be, a person named in such an HMO licence as a person on whom a restriction or obligation is imposed under section 14,
- (c) is, or is proposed to be, a managing agent of the premises,
- (d) is, or appears to the council to be, the owner or occupier of the premises, or
- (e) receives, or appears to the council to receive, any rent (directly or indirectly) in respect of the premises.

Power to require persons connected to premises to produce documents

72.—(1) The council may, by serving notice on a relevant person, require the person to produce to the council any documents which—

- (a) are specified or described in the notice, or fall within a category of document which is specified or described in the notice, and
- (b) are in the person’s custody or under the person’s control.

- (2) A notice under this section must—
 - (a) specify a date, not less than 21 days after the date on which the notice is served, by which the documents must be produced,
 - (b) specify a person to whom the documents must be produced, and
 - (c) include information about the possible consequences of not complying with the notice.
- (3) A person to whom any document is produced in accordance with the notice may copy the document.
- (4) Nothing in this section requires a person to produce a document if the person would be entitled to refuse to produce it in proceedings in the High Court on grounds of legal professional privilege.
- (5) In this section—
 - “relevant person” has the same meaning as in section 71,
 - “document” includes information recorded otherwise than in legible form, and in relation to information so recorded, any reference to the production of a document is a reference to the production of a copy of the information in legible form.

Power to obtain information from other persons

- 73.—**(1) The council may, by serving notice on a relevant person, require the person to provide to the council, in writing, any relevant information which is in the person’s custody or under the person’s control.
- (2) “Relevant person” means any of the following—
 - (a) the Department of Finance and Personnel;
 - (b) the Northern Ireland Housing Executive;
 - (c) a scheme administrator of a tenancy deposit scheme under regulations under Article 5A of the Private Tenancies (Northern Ireland) Order 2006;
 - (d) a registrar of landlords appointed under regulations under Article 65A of that Order;
 - (e) any person acting as a gangmaster in relation to work in Northern Ireland;
 - (f) a utilities undertaker;
 - (g) an institution of further education;
 - (h) a higher education institution;
 - (i) any person carrying on estate agency work or lettings agency work in the course of a business.
 - (3) “Relevant information” means—

- (a) information which indicates that a building or part of a building is or may be an HMO;
 - (b) the following information about any living accommodation which is or may be an HMO—
 - (i) information as to its location, condition, size or description;
 - (ii) information as to the number of its occupants;
 - (c) the name and address of the owner of any such accommodation, or of any person acting as an agent of the owner;
 - (d) the name and date of birth of any person who is, or appears to be, an occupant of any such accommodation;
 - (e) the date on which any tenancy or other arrangement to occupy any such accommodation begins or ends.
- (4) But information is “relevant information” only if—
- (a) in the case of information held by the Department of Finance and Personnel, it is held for the purpose of that Department’s functions—
 - (i) under the Rates (Northern Ireland) Order 1977 or the Rates (Capital Values, etc) (Northern Ireland) Order 2006, or
 - (ii) in relation to the administration of housing benefit;
 - (b) in the case of information held by the Northern Ireland Housing Executive, it is held for the purposes of the Executive’s functions in relation to the administration of housing benefit.
- (5) A notice under this section must—
- (a) specify a date, not less than 21 days after the date on which the notice is served, by which the information must be provided,
 - (b) specify a person to whom the information must be provided, and
 - (c) include information about the possible consequences of not complying with the notice.
- (6) Information provided by a person in response to a notice under this section may be used in criminal proceedings as evidence against the person only where subsection (7) or (8) applies.
- (7) This subsection applies where the person is being prosecuted for an offence under Article 7 or 10 of the Perjury (Northern Ireland) Order 1979 (false statutory declarations and other false unsworn statements).
- (8) This subsection applies where the person is being prosecuted for any other offence and—
- (a) in giving evidence the person makes a statement inconsistent with the information provided in response to the notice, and

- (b) evidence relating to that information is adduced, or a question about it is asked, by or on behalf of the person.
- (9) This section—
 - (a) has effect notwithstanding any restriction on the disclosure of information imposed by any statutory provision or rule of law, and
 - (b) does not limit the circumstances in which information may be used or provided apart from this section.
- (10) Schedule 6 contains definitions for the purposes of this section.
- (11) The Department may by regulations amend the definitions of “relevant person” and “relevant information”, as set out in this section and Schedule 6, in such manner as it considers appropriate.

Sharing of information between councils

- 74.**—(1) A council may provide to any other council any information held by the council in connection with its functions under this Act.
- (2) Information may be provided under subsection (1) only on the request of the other council; and may be used by that council only in connection with its functions under this Act.
- (3) This section—
 - (a) has effect notwithstanding any restriction on the disclosure of information imposed by any statutory provision or rule of law, and
 - (b) does not limit the circumstances in which information may be used or provided apart from this section.

Failure to provide information or provision of false information

- 75.**—(1) A person commits an offence if the person—
 - (a) refuses or fails to provide information as required under section 71 or 73 or to provide a document as required under section 72, and
 - (b) does not have a reasonable excuse for that refusal or failure.
- (2) A person commits an offence if—
 - (a) the person provides information in response to a notice under section 71 or 73 or a request under section 74,
 - (b) the information is false or misleading in a material particular, and
 - (c) the person knows that it is, or is reckless as to whether it is, false or misleading.
- (3) A person commits an offence if the person intentionally alters, suppresses or destroys any document that the person has been required to produce by a notice under section 72.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Unauthorised disclosure of information obtained under section 73 or 74

76.—(1) An employee of a council commits an offence if the employee discloses without lawful authority any information—

- (a) which the employee acquired in the course of his or her employment,
- (b) which is, or is derived from, information provided to the council under section 73 or 74, and
- (c) which relates to particular living accommodation or a particular person.

(2) It is not an offence under this section to disclose information which has previously been disclosed to the public with lawful authority.

(3) It is a defence for a person charged with an offence under this section to show that, at the time of the alleged offence, the person believed—

- (a) that the disclosure in question was being made with lawful authority and had no reasonable cause to believe otherwise, or
- (b) that the information in question had previously been disclosed to the public with lawful authority and had no reasonable cause to believe otherwise.

(4) For these purposes a disclosure of information is made with lawful authority if, and only if, it is made—

- (a) by an employee of the council in accordance with the employee's official duties,
- (b) in accordance with any statutory provision or order of a court,
- (c) for the purposes of any criminal proceedings, or
- (d) with the consent of the person to whom the information relates.

(5) A person guilty of an offence under this section is liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum;
- (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or to both.

Court to inform council of convictions

77.—(1) This section applies where a court convicts a person of any offence under this Act, other than an offence under section 76.

(2) Within 6 days of the court convicting the person, the court must send to the relevant council—

- (a) notice of the conviction and sentence (if any), and
- (b) a note of any revocation order or disqualification order made by the court in consequence of the conviction.

(3) The relevant council is—

- (a) where the offence relates to an HMO or any other premises, the council for the area in which the HMO or other premises is situated;
- (b) where the offence relates to an HMO licence or any notice issued under this Act, the council which issued the licence or notice.