Pensions Act 1995

1995 CHAPTER 26

PART I

OCCUPATIONAL PENSIONS

Disclosure of information: the Authority

104 Restricted information

(1) Except as provided by sections 106 to 108, restricted information must not be disclosed by the Authority or by any person who receives the information directly or indirectly from them, except with the consent of the person to whom it relates and (if different) the person from whom the Authority obtained it.

(2) For the purposes of this section and sections 105 to 108, "restricted information" means any information obtained by the Authority in the exercise of their functions which relates to the business or other affairs of any person, except for information—

(a) which at the time of the disclosure is or has already been made available to the public from other sources, or

(b) which is 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.

(3) Any person who discloses information in contravention of this section is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to a fine or imprisonment, or both.

105 Information supplied to the Authority by corresponding overseas authorities

(1) Subject to subsection (2), for the purposes of section 104, "restricted information" includes information which has been supplied to the Authority for the purposes of their

functions by an authority which exercises functions corresponding to the functions of the Authority in a country or territory outside the United Kingdom.

(2) Sections 106 to 108 do not apply to such information as is mentioned in subsection (1), and such information must not be disclosed except—

(a) as provided in section 104,

(b) for the purpose of enabling or assisting the Authority to discharge their functions, or

(c) with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Act or otherwise.

106 Disclosure for facilitating discharge of functions by the Authority

(1) Section 104 does not preclude the disclosure of restricted information in any case in which disclosure is for the purpose of enabling or assisting the Authority to discharge their functions.

(2) If, in order to enable or assist the Authority properly to discharge any of their functions, the Authority consider it necessary to seek advice from any qualified person on any matter of law, accountancy, valuation or other matter requiring the exercise of professional skill, section 104 does not preclude the disclosure by the Authority to that person of such information as appears to the Authority to be necessary to ensure that he is properly informed with respect to the matters on which his advice is sought.

107 Disclosure for facilitating discharge of functions by other supervisory authorities

(1) Section 104 does not preclude the disclosure by the Authority of restricted information to any person specified in the first column of the following Table if the Authority consider that the disclosure would enable or assist that person to discharge the functions specified in relation to him in the second column of that Table.

TABLE

The Secretary of State.	Functions under the Insurance Companies Act 1982, Part XIV of the Companies Act 1985, the Insolvency Act 1986, the Financial Services Act 1986, Part III of the Companies Act 1989 or Part III of the Pension Schemes Act 1993.
The Treasury.	Functions under the Financial Services Act 1986.
The Bank of England.	Functions under the Banking Act 1987 or any other functions.
The Charity Commissioners.	Functions under the Charities Act 1993.
The Lord Advocate.	Functions under Part I of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990.

The Pensions Ombudsman and the Registrar of Occupational and Personal Pension Schemes.	Functions under the Pension Schemes Act 1993 or the Pension Schemes (Northern Ireland) Act 1993.
The Compensation Board.	Functions under this Act or any corresponding enactment in force in Northern Ireland.
The Policyholders Protection Board.	Functions under the Policyholders Protection Act 1975.
The Deposit Protection Board.	Functions under the Banking Act 1987.
The Investor Protection Board.	Functions under the Building Societies Act 1986.
The Friendly Societies Commission.	Functions under the enactments relating to friendly societies.
The Building Societies Commission.	Functions under the Building Societies Act 1986.
The Commissioners of Inland Revenue or their officers.	Functions under the Taxes Act 1988 or the Taxation of Chargeable Gains Act 1992.
The Official Receiver, or, in Northern Ireland, the Official Receiver for Northern Ireland.	Functions under the enactments relating to insolvency.
An inspector appointed by the Secretary of State.	Functions under Part XIV of the Companies Act 1985 or section 94 or 177 of the Financial Services Act 1986.
A person authorised to exercise powers under section 43A or 44 of the Insurance Companies Act 1982, section 447 of the Companies Act 1985, section 106 of the Financial Services Act 1986, Article 440 of the Companies (Northern Ireland) Order 1986, or section 84 of the Companies Act 1989.	Functions under those sections or that Article.
A designated agency or transferee body or the competent authority (within the meaning of the Financial Services Act 1986).	Functions under the Financial Services Act 1986.
A recognised self-regulating organisation, recognised professional body, recognised investment exchange or recognised clearing house (within the meaning of the Financial Services Act 1986).	Functions in its capacity as an organisation, body, exchange or clearing house recognised under the Financial Services Act 1986.
A person administering a scheme for compensating investors under section 54 of the Financial Services Act 1986.	Functions under that section.

A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986).	Functions in its capacity as such a body under that Act.
The Department of Economic Development in Northern Ireland.	Functions under Part XV of the Companies (Northern Ireland) Order 1986, the Insolvency (Northern Ireland) Order 1989 or Part II of the Companies (No. 2)(Northern Ireland) Order 1990.
The Department of Health and Social Services for Northern Ireland.	Functions under Part III of the Pension Schemes (Northern Ireland) Act 1993.
An inspector appointed by the Department of Economic Development in Northern Ireland.	Functions under Part XV of the Companies (Northern Ireland) Order 1986.
A recognised professional body within the meaning of Article 350 of the Insolvency (Northern Ireland) Order 1989.	Functions in its capacity as such a body under that Order.

(2) The Secretary of State may after consultation with the Authority—

(a) by order amend the Table in subsection (1) by—

(i) adding any person exercising regulatory functions and specifying functions in relation to that person,

(ii) removing any person for the time being specified in the Table, or

(iii) altering the functions for the time being specified in the Table in relation to any person, or

(b) by order restrict the circumstances in which, or impose conditions subject to which, disclosure may be made to any person for the time being specified in the Table.

108 Other permitted disclosures

(1) Section 104 does not preclude the disclosure by the Authority of restricted information to—

(a) the Secretary of State, or

(b) the Department of Health and Social Services for Northern Ireland,

if the disclosure appears to the Authority to be desirable or expedient in the interests of members of occupational pension schemes or in the public interest.

(2) Section 104 does not preclude the disclosure of restricted information—

(a) with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Act or otherwise,

(b) in connection with any other proceedings arising out of—

(i) this Act, or

(ii) the Pension Schemes Act 1993,

or any corresponding enactment in force in Northern Ireland or any proceedings for breach of trust in relation to an occupational pension scheme,

(c) with a view to the institution of, or otherwise for the purposes of, proceedings under section 7 or 8 of the Company Directors Disqualification Act 1986 or Article 10 or 11 of the Companies (Northern Ireland) Order 1989,

(d) in connection with any proceedings under the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989 which the Authority have instituted or in which they have a right to be heard,

(e) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise of his professional duties by a solicitor, an actuary or an accountant,

(f) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the discharge by a public servant of his duties,

(g) for the purpose of enabling or assisting an authority in a country outside the United Kingdom to exercise functions corresponding to those of the Authority under this Act, or

(h) in pursuance of a Community obligation.

(3) Section 104 does not preclude the disclosure by the Authority of information to the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Lord Advocate, a procurator fiscal or a constable.

(4) Section 104 does not preclude the disclosure by any person mentioned in subsection (1) or (3) of information obtained by the person by virtue of that subsection, if the disclosure is made with the consent of the Authority.

(5) Section 104 does not preclude the disclosure by any person specified in the first column of the Table in section 107 of information obtained by the person by virtue of that subsection, if the disclosure is made—

(a) with the consent of the Authority, and

(b) for the purpose of enabling or assisting the person to discharge any functions specified in relation to him in the second column of the Table.

(6) The Authority must, before deciding whether to give their consent to such a disclosure as is mentioned in subsection (4) or (5), take account of any representations made to them by the person seeking to make the disclosure as to the desirability of the disclosure or the necessity for it.

(7) In subsection (2), "public servant" means an officer or servant of the Crown or of any prescribed authority.

109 Disclosure of information by the Inland Revenue

(1) This section applies to information held by any person in the exercise of tax functions about any matter relevant, for the purposes of those functions, to tax or duty in the case of an identifiable person (in this section referred to as "tax information").

(2) No obligation as to secrecy imposed by section 182 of the Finance Act 1989 or otherwise shall prevent the disclosure of tax information to the Authority for the purpose of enabling or assisting the Authority to discharge their functions.

(3) Where tax information is disclosed to the Authority by virtue of subsection (2), it shall, subject to subsection (4), be treated for the purposes of section 104 as restricted information.

(4) Sections 106 to 108 do not apply to tax information and such information must not be disclosed except—

(a) to, or in accordance with authority duly given by, the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, or

(b) with a view to the institution of, or otherwise for the purposes of, criminal proceedings under this Act or the Pension Schemes Act 1993, or any enactment in force in Northern Ireland corresponding to either of them.

(5) In this section "tax functions" has the same meaning as in section 182 of the Finance Act 1989.