Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the Northern Ireland Act 2000, for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2005 No.

NORTHERN IRELAND

The Local Government (Northern Ireland) Order 2005

Made - - - - 2005

Coming into operation in accordance with Article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) 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:–

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Local Government (Northern Ireland) Order 2005.

(2) Parts II and III come into operation on such day or days as the Department may by order appoint.

(3) An order under paragraph (2) may contain such transitional provisions and savings as the Department thinks appropriate.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

"the Department" means the Department of the Environment;

"statutory provision" has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

"the principal Act" means the Local Government Act (Northern Ireland) 1972 (c. 9).

(3) Expressions used in this Order and in the principal Act have the same meaning in this Order as in that Act.

PART II

LOCAL GOVERNMENT AUDIT

Audit of accounts

Audit of accounts of councils, etc.

3.—(1) The accounts of every local government body—

(a) shall be made up to the end of each financial year; and

(b) shall be audited in accordance with this Part by a local government auditor assigned by the Department, after consultation with the Comptroller and Auditor General for Northern Ireland.

(2) In this Part "local government body" means—

(a) a council;

(b) a committee of a council for which accounts are separately kept;

(c) a joint committee of two or more councils.

(3) Without prejudice to section 19(9)(c) of the principal Act, in its application to a joint committee this Part has effect as if any reference to the district of a council included a reference to the districts of all the councils which have concurred in appointing a joint committee.

Local government auditors

4.—(1) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate persons who are members of the staff of the Northern Ireland Audit Office as local government auditors.

(2) Only persons so designated may—

(a) audit accounts which are by law subject to audit by local government auditors; or

(b) exercise any other function conferred by law on such auditors.

(3) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate a local government auditor as chief local government auditor.

(4) The chief local government auditor shall in respect of each financial year prepare a report as to the exercise by local government auditors of their functions in that year and shall send a copy of that report to each council and to the Department.

(5) Any sums payable by a local government auditor in consequence of any liability for breach of duty (whether arising under a contract or otherwise) incurred by him in performing his functions shall be charged on and issued out of the Consolidated Fund.

Code of audit practice

5.—(1) The chief local government auditor shall prepare, and keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions under this Part.

(2) The code shall embody what appears to the chief local government auditor to be the best professional practice with respect to the standards, procedures and techniques to be adopted by auditors.

(3) The code does not come into force until approved by a resolution of the Assembly, and its continuation in force is subject to its being so approved at intervals of not more than five years.

(4) Paragraph (3) does not preclude alterations to the code being made by the chief local government auditor in the intervals between its being approved in accordance with that paragraph.

(5) The chief local government auditor shall send copies of the code, and of any alterations made to the code, to the Department.

(6) The chief local government auditor shall publish the code as for the time being in force.

(7) The Department shall lay before the Assembly the code as for the time being in force.

(8) Before preparing or altering the code, the chief local government auditor shall consult district councils and—

(a) such associations or bodies representative of district councils;

(b) such associations or bodies representative of officers of councils;

(c) such bodies of accountants; and

(d) such other bodies or persons,

as appear to him to be appropriate.

General duties of local government auditors

6.—(1) In auditing accounts required to be audited in accordance with this Part, a local government auditor shall by examination of the accounts and otherwise satisfy himself—

(a) that they are prepared in accordance with regulations under Article 24;

(b) that they comply with the requirements of all other statutory provisions applicable to the accounts;

(c) that proper practices have been observed in the compilation of the accounts; and

(d) that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

(2) In auditing any such accounts the auditor shall comply with the code of audit practice as for the time being in force under Article 5.

(3) In relation to a local government body the reference to proper practices in paragraph (1)(c) is a reference to those accounting practices—

(a) which the body is required to follow by virtue of any statutory provision; or

(b) which, whether by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts of local government bodies, either generally or of the description concerned;

but, in the event of any conflict in any respect between the practices falling within sub-paragraph (a) and those falling within sub-paragraph (b), only those falling within sub-paragraph (a) are to be regarded as proper practices.

Auditors' right to documents and information

7.—(1) A local government auditor has a right of access at all reasonable times to every document relating to a local government body which appears to him necessary for the purposes of his functions under this Part.

(2) A local government auditor may—

(a) require a person holding or accountable for any such document to give him such information and explanation as he thinks necessary for the purposes of his functions under this Part; and

(b) if he thinks it necessary, require the person to attend before him in person to give the information or explanation or to produce the document.

(3) Without prejudice to paragraph (2), the auditor may—

(a) require any officer or member of a local government body to give him such information or explanation as he thinks necessary for the purposes of his functions under this Part; and

(b) if he thinks it necessary, require the officer or member to attend before him in person to give the information or explanation.

(4) Without prejudice to paragraphs (1) to (3), every local government body shall provide an auditor with every facility and all information which he may reasonably require for the purposes of his functions under this Part.

(5) A person who without reasonable excuse fails to comply with any requirement of an auditor under this Article is guilty of an offence and liable on summary conviction—

(a) to a fine not exceeding level 3 on the standard scale, and

(b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.

(6) If, on an application made by a local government auditor, the High Court is satisfied that—

(a) the auditor has made a requirement under this Article; and

(b) a person or body specified in the application has, without reasonable excuse, failed to comply with that requirement,

the High Court may make an order directing that person or body to comply with that requirement within such time as is specified in the order.

(7) Any expenses incurred by an auditor—

(a) in connection with proceedings for an offence under paragraph (5) alleged to have been committed in relation to the audit of the accounts of any body, or

(b) in connection with proceedings under paragraph (6) arising in connection with the audit of the accounts of any body,

are, so far as not recovered from any other source, recoverable from that body.

Audit fees

8. There shall be paid to the Comptroller and Auditor General for Northern Ireland by every body whose accounts are audited by local government auditors such fees as the Department may determine.

Auditors' reports and recommendations

Immediate and other reports in the public interest

9. In auditing accounts of a local government body in accordance with this Part, a local government auditor shall consider—

(a) whether, in the public interest, he should make a report on any matter coming to his notice in the course of the audit, in order for it to be considered by the body concerned or brought to the attention of the public, and

(b) whether the public interest requires any such matter to be made the subject of an immediate report rather than of a report to be made at the conclusion of the audit.

General report

10.—(1) When a local government auditor has concluded his audit of the accounts of any body under this Part he shall, subject to paragraph (2), enter on the relevant statement of accounts prepared pursuant to regulations under Article 24—

(a) a certificate that he has completed the audit in accordance with this Part, and

(b) his opinion on the statement of accounts.

(2) Where an auditor makes a report to the body concerned under Article 9 at the conclusion of the audit, he may include the certificate and opinion referred to in paragraph (1) in that report instead of making an entry on the statement of accounts.

Transmission and consideration of Article 9 reports

11.—(1) Any report under Article 9 shall be sent by the auditor to the body concerned—

(a) forthwith if it is an immediate report;

(b) otherwise not later than 14 days after conclusion of the audit.

(2) A copy of the report shall be sent by the auditor to the Department—

(a) forthwith if it is an immediate report;

(b) otherwise not later than 14 days after conclusion of the audit.

(3) The body concerned shall take the report into consideration in accordance with Articles 12 and 13.

(4) The agenda supplied to the members for the meeting of the body at which the report is considered shall be accompanied by the report.

(5) The report shall not be omitted under the power in section 24(a) of the principal Act from the matter supplied under that section to a newspaper.

Consideration of reports or recommendations

12.—(1) A local government body shall consider in accordance with this Article and Article 13—

(a) any report under Article 9, and

(b) any written recommendation within paragraph (2),

sent to the body in connection with the audit of its accounts.

(2) A written recommendation is within this paragraph if—

(a) it is made to the body concerned by a local government auditor; and