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

2003 No. (N.I.)

NORTHERN IRELAND

The Audit and Accountability (Northern Ireland) Order 2003

Made - - - - 2003
Coming into operation in accordance with Article1(2) and (3)

At the Court at Buckingham Palace, the day of 2003

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:—

Introductory

Title and commencement

1.—(1) This Order may be cited as the Audit and Accountability (Northern Ireland) Order 2003.

(2) Article 8 comes into operation one week after the day on which this Order is made and the remaining provisions of this Order come into operation on 1st April 2003 ("the commencement date").

(3) Articles 3 and 4 do not apply in relation to—

(a) the audit of accounts for a financial year beginning before the commencement date; or

(b) an examination under Article 8 or 9 of the Audit (Northern Ireland) Order 1987 (NI 5) beginning before that date.

(4) Article 5 (with Schedule 1) and Article 6 do not apply in relation to accounts for a financial year beginning before the commencement date.

(5) Nothing in Article 7 affects the validity of anything done before the commencement date by a local government auditor appointed under section 74 of the Local Government Act (Northern

Ireland) 1972 (as heretofore in force); and anything so done shall have effect as if done by a local government auditor within the meaning of that section (as substituted by Article 7).

(5) References in this Article to provisions of this Order include references to related amendments and repeals in Schedules 2 and 3.

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—

"accounts" includes a statement of accounts;

"audit", in relation to accounts, means examine, certify and report on the accounts;

"the Comptroller and Auditor General" (except in Article 4(3)(b)) means the Comptroller and Auditor General for Northern Ireland;

"the Department" means the Department of Finance and Personnel;

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

Access to information for purposes of audit or examination

Access to information for purposes of audit or examination by Comptroller and Auditor General

3.—(1) This Article applies in relation to—

(a) the audit of the accounts of any body for any year which is carried out by the Comptroller and Auditor General under a statutory provision; and

(b) an examination carried out by the Comptroller and Auditor General in respect of a body under Article 8 or 9 of the Audit (Northern Ireland) Order 1987 (NI 5) (examination into economy, efficiency and effectiveness).

(2) For the purposes of such an audit or examination—

(a) the Comptroller and Auditor General shall have a right of access to any relevant documents; and

(b) a person who holds, has control of or is accountable for any of those documents shall give the Comptroller and Auditor General any assistance, information or explanation which he requires in relation to any of those documents.

(3) In relation to the audit of the accounts of any body for a year, "relevant documents" are documents which relate to the accounts of the body for that year and are held or controlled—

(a) by the body itself;

(b) in pursuance of arrangements made by the body for the compiling or handling of any of its financial records;

(c) by a person who at any time in that year has received financial assistance from the body by means of—

(i) a grant;

(ii) a loan;

(iii) a guarantee; or

(iv) the taking of an interest in any property or body corporate; or

(d) by a person who at any time in that year—

(i) has supplied goods or services to the body in pursuance of a contract with the body; or

(ii) has been a sub-contractor in relation to such a contract.

(4) In relation to an examination carried out in respect of a body, "relevant documents" are documents which relate to the use of resources by the body in discharging its functions and are held or controlled—

(a) by the body itself;

(b) in pursuance of arrangements made by the body for the compiling or handling of any of its financial records;

(c) by a person who at any time has received financial assistance from the body by means of—

(i) a grant;

(ii) a loan;

(iii) a guarantee; or

(iv) the taking of an interest in any property or body corporate; or

(d) by a person who at any time—

(i) has supplied goods or services to the body in pursuance of a contract with the body; or

(ii) has been a sub-contractor in relation to such a contract.

(5) The Department may by order provide for this Article to apply in relation to documents (in addition to relevant documents)—

(a) of a specified description; or

(b) which are held or controlled either by a person of a specified kind or in specified circumstances.

(6) An order under paragraph (5) may apply—

(a) in respect of audits or examinations or both;

(b) in respect of any particular body or bodies or in respect of all bodies generally.

(7) In determining whether and if so how to exercise its powers under paragraph (5), the Department shall have regard to any views expressed by the Public Accounts Committee of the Assembly.

(8) An order under paragraph (5) shall not be made unless—

(a) the Department has consulted the Comptroller and Auditor General; and

(b) a draft of the order has been laid before, and approved by resolution of the Assembly.

(9) This Article applies in relation to—

(a) the audit of the accounts of a person holding a statutory office as it applies in relation to the audit of the accounts of a body; and

(b) an examination carried out in respect of such a person as it applies in relation to an examination carried out in respect of a body.

(10) In this Article and Article 4—

"document" includes anything in which information is recorded in any form;

"examination" means an examination under Article 8 or 9 of the Audit (Northern Ireland) Order 1987 (NI 5).

Access to documents of third parties: restrictions and exclusions

4.—(1) The Comptroller and Auditor General shall not for the purposes of any audit or examination exercise any right conferred by Article 3 in relation to a person mentioned in paragraph (3)(c) or (d) or (as the case may be) (4)(c) or (d) of that Article unless he determines—

(a) that it is necessary to do so for the proper conduct of the audit or examination; and

(b) that, in the circumstances of the case, it is reasonable to do so.

(2) Paragraphs (3)(c) and (4)(c) of Article 3 do not apply in relation to any payment made to an individual under—

(a) any legislation to which section 87 of the Northern Ireland Act 1998 (c. 47) applies for the time being (social security, child benefit and pensions legislation);

(b) the Employment and Training Act (Northern Ireland) 1950 (c. 29); or

(c) any other statutory provision prescribed by order made by the Department subject to negative resolution.

(3) Paragraphs (3)(c) and (d) and (4)(c) and (d) of Article 3 do not authorise access to the documents held or controlled by—

(a) any department or Minister of the Government of the United Kingdom; or

(b) any other body whose accounts are required under any statutory provision to be audited by the Comptroller and Auditor General appointed under section 6 of the Exchequer and Audit Departments Act 1866 (c. 39).

Reorganisation of audit arrangements

Additional bodies whose annual accounts are to be subject to audit by the Comptroller and Auditor General

5.—(1) The Comptroller and Auditor General shall examine, certify and report on the annual statement of accounts of the following bodies—

(a) the Council for Catholic Maintained Schools;

(b) Enterprise Ulster;

(c) the Fire Authority for Northern Ireland;

(d) the Fisheries Conservancy Board for Northern Ireland;

(e) the General Consumer Council for Northern Ireland;

(f) the Governors of the Armagh Observatory and Planetarium;

(g) the Health and Safety Executive for Northern Ireland;

(h) industrial training boards;

(i) the Labour Relations Agency;

(j) the Laganside Corporation;

(k) the Livestock and Meat Commission for Northern Ireland;

(l) the Mental Health Commission for Northern Ireland;

(m) the Northern Ireland Housing Executive.

(2) Accordingly the statutory provisions set out in Schedule 1 (which provide for the annual statement of accounts of those bodies to be audited by other auditors) shall have effect subject to the amendments specified in that Schedule.

(3) The Department may by order provide for the accounts of any other body to be audited by the Comptroller and Auditor General.

(4) An order under paragraph (3)—

(a) may be made in relation to a body only if it appears to the Department that the body exercises functions of a public nature or is entirely or substantially funded from public money; and

(b) may make such supplementary or consequential provision (including provision amending a statutory provision) as the Department thinks necessary or expedient.

(5) In determining whether and if so how to exercise its powers under paragraph (3), the Department shall have regard to any views expressed by the Public Accounts Committee of the Assembly.

(6) An order under paragraph (3) shall not be made unless—

(a) the Department has consulted the Comptroller and Auditor General; and

(b) a draft of the order has been laid before, and approved by resolution of, the Assembly.

Reorganisation of health and personal social services audit

6. For Articles 90 to 92A of the Health and Personal Social Services (Northern Ireland) Order 1972 (NI 14) (accounts and audit of health and personal social services bodies) there shall be substituted—

"**Accounts and audit: health and personal social services bodies**

90.—(1) Each body to which this Article applies shall—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

(a) be in such form; and

(b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

(3) Each body to which this Article applies shall, within such period after the end of each financial year as the Department may direct, send copies of the statement of accounts relating to that year to—

(a) the Department; and

(b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General shall—

(a) examine, certify and report on every statement of accounts sent to him under this Article; and

(b) send a copy of his report to the Department.

(5) The Department shall lay a copy of the statement of accounts and of the Comptroller and Auditor General's report before the Assembly.

(6) This Article applies to—

(a) Health and Social Services Boards;

(b) the Agency;