Changes to legislation: *The Audit (Northern Ireland) Order 1987 is up to date with all changes known to be in force on or before 06 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1987 No. 460 (N.I. 5)

The Audit (Northern Ireland) Order 1987

- - - - - - *18th March 1987*

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Audit (Northern Ireland) Order 1987.

(2) Subject to paragraph (3), this Order shall come into operation on 1st April 1987.

Para. (3) rep. by 2001 c. 6 (NI)

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

Definition rep. by 2001 c. 6 (NI)

"the appointed day" means**[**F1 (except in Article 4A)**]** the day appointed by order under Article 1(2);

"Comptroller and Auditor General" means the Comptroller and Auditor General for Northern Ireland;

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

Definition rep. by 1998 c. 47

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

F1 1993 c. 8

PART II

NORTHERN IRELAND AUDIT AUTHORITIES

Discharge of functions by Comptroller and Auditor General

3. Subject to any duty imposed on him by any statutory provision (including this Order), the Comptroller and Auditor General shall have complete discretion in the discharge of his functions and, in particular, in determining whether to carry out any examination under part III and as to the manner in which any such examination is carried out.

Salary and pension of Comptroller and Auditor General

4 [F2]**.**—(1) There shall be paid to the holder of the office of Comptroller and Auditor General such salary, not exceeding the maximum salary for the time being payable to any person employed in the civil service of Northern Ireland, as may from time to time be determined by or in pursuance of a resolution of the Assembly; and a resolution under this paragraph may take effect from the date on which it is passed or from such other date as may be specified in the resolution.
Para. (2) rep. by 1998 c. 47

(3) The salary payable to a holder of the office of Comptroller and Auditor General shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected.

(4) The service of any person as Comptroller and Auditor General shall be treated for the purposes of the Superannuation (Northern Ireland) Order 1972 as service in employment in the civil service of Northern Ireland**[**[F3] unless he elects under Article 4A for it to be treated otherwise**]**, but in computing the salary of a former holder of the office of Comptroller and Auditor General for the purposes of that Order—

(a) any abatement of that salary under paragraph (3);

(b) any temporary abatement of that salary in the national interest; and

(c) any voluntary surrender of that salary in whole or in part,

shall be disregarded.

(5) There shall be charged on and issued out of the Consolidated Fund—

(a) the salary of the Comptroller and Auditor General; and

(b) any pension, allowance or gratuity payable to or in respect of the Comptroller and Auditor General by virtue of paragraph (4).

Paras. (6)(7) rep. by 1998 c. 47

F2 mod. (while 2000 c. 1 s. 1 is in force) by 2000 c. 1
F3 1993 c. 8

[F4Pension of Comptroller and Auditor General: supplementary

4A [F5]**.**—(1) This Article applies to a person—

(a) who first holds office on or after the appointed day as the Comptroller and Auditor General; and

(b) who, immediately before he first holds that office, is a member of a judicial pension scheme.

(2) A person to whom this Article applies shall be entitled to elect between—

(a) the scheme of pensions and other benefits under the judicial pension scheme mentioned in paragraph 1(b) (his "former scheme");

(b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act ("the 1993 scheme"); and

(c) the scheme of pensions and other benefits applicable under the Superannuation (Northern Ireland) Order 1972 to the civil service of Northern Ireland ("the civil service scheme");

and, if he fails to make an election under this paragraph, he shall be treated as if he had elected for the civil service scheme.

(3) Where a person elects under this Article for his former scheme, that scheme shall, subject to regulations under this Article, apply as if his service as Comptroller and Auditor General were service which was subject, in his case, to that scheme.

(4) A person who elects under paragraph (2)(b) for the 1993 scheme, shall be entitled, when he ceases to hold office as Comptroller and Auditor General, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

(a) he has attained the age of 65; or

(b) he is disabled by permanent infirmity for the performance of the duties of the office;

and, subject to the following provisions of, and regulations under, this Article, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension#capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Comptroller and Auditor General as they apply in relation to a person to whom Part I of that Act applies.

(5) Subject to regulations under this Article, in the application of provisions of the 1993 Act by virtue of paragraph (4), a person who elects for the 1993 scheme shall be treated—

(a) as if the office of the Comptroller and Auditor General were a quailifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;

(b) as if his election under this Article were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);

(c) as if his pension by virtue of this Article were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and

(d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or childrens's pension payable under sections 5 to 8 of that Act in respect of his service as Comptroller and Auditor General, as if references in those sections to the annual rate of the deceased's judicial pension were references—

(i) where a pension had commenced to be paid to him by virtue of paragraph (4), to the appropriate annual rate of that pension; or

(ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of paragraph (4)(b), had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Comptroller and Auditor General (whether by virtue of paragraph (2)(a) or (b)) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension#capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury

and the power conferred by pargraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

(6) Where a person elects under this Article for the civil service scheme, Article 4(4) shall apply in relation to his service as Comptroller and Auditor General.

(7) Any power to make an election under this Article shall be exercisable within such time and in such manner as may be prescribed in regulations under this Article.

(8) The Treasury may make regulations for purposes supplementary to the other provisions of this Article.

(9) Any such regulations may, without prejudice to section 38 of the Superannuation Act (Northern Ireland) 1967 or section 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—

(a) his former scheme,

(b) the 1993 scheme, or

(c) the civil service scheme,

applies, or has applied, in respect of any service other than service as Comptroller and Auditor General.

(10) The provision that may be made by virtue of paragraph (9) includes provision—

(a) for aggregating—

(i) other service falling within his former scheme or the 1993 scheme with service as Comptroller and Auditor General, or

(ii) service as Comptroller and Auditor General with such other service,

for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;

(b) for increasing the amount of the benefit payable under either of the schemes mentioned in sub#paragraph (a)(i), in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Comptroller and Auditor General,up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.

(11) Regulations made under this Article shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(12) Any pension or other benefit granted by virtue of this Article (except a pension or other benefit under the civil service scheme) shall be charged on, and issued out of, the Consolidated Fund of the United Kingdom.

(13) In this Article—

"the 1993 Act" means the Judicial Pensions and Retirement Act 1993;

"the appointed day" means the day on which Part IV of Schedule 4 to the 1993 Act comes into force;

"judicial pension scheme" means any public service pension scheme, as defined in—

(a) **[**[F6]section 1 of the Pension Schemes Act 1993**]**, or

(b) **[**[F6]section 1 of the Pension Schemes (Northern Ireland) Act 1993**]**,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme.**]**

F4 1993 c. 8
F5 functions transf. by SI 1995/269
F6 1993 c. 49

The Northern Ireland Audit Office

5.—(1) There shall be a Northern Ireland Audit Office consisting of—

(a) the Comptroller and Auditor General, who shall be the head of that Office; and

(b) the staff appointed by him under this Order.

(2) Schedule 1 shall have effect in relation to the Northern Ireland Audit Office.

Expenses and accounts of Northern Ireland Audit Office

6.—(1) Subject to the provisions of this Article and of Article 4(5), the expenses of the Northern Ireland Audit Office shall be defrayed out of moneys appropriated by Measure.

(2) The Comptroller and Auditor General shall for each financial year prepare an estimate of**[**F7 the use of resources (within the meaning of the Government Resources and Accounts Act (Northern Ireland) 2001) by**]** the Northern Ireland Audit Office; and that estimate with such modifications, if any, as may be agreed between**[**F8 the committee established under section 66 of the Northern Ireland Act 1998**]** and the Comptroller and Auditor General shall be laid by**[**F8 that committee**]** before the Assembly.

(3) The Department shall appoint a person to be responsible as accounting officer for preparing**[**F7 resource accounts for the Northern Ireland Audit Office, of the kind mentioned in section 9 of the Government Resources and Accounts Act (Northern Ireland) 2001, for each financial year**]**.

(4) The Department shall appoint an auditor for the Northern Ireland Audit Office, and Schedule 2 shall have effect in relation to his appointment and duties.

(5) Any sums payable by the Comptroller and Auditor General in consequence of any liability for breach of duty (whether arising under a contract or otherwise) incurred by him or a member of the staff of the Northern Ireland Audit Office in performing**[**F9 any functions**]** in respect of any audit or examination **[**F10or in respect of data matching**]** shall be charged on and issued out of the Consolidated Fund.
Para. (6) rep. by 1998 c. 47

F7 2001 c. 6 (NI)
F8 1998 c. 47
F9 2003 NI 5
F10 Words in art. 6(5) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), ss. 73, 94(1), **Sch. 7 para. 7**; S.I. 2008/755, **art. 16(a)**

Audit fees

7.—(1) Subject to paragraph (2), the Comptroller and Auditor General may charge a fee for auditing the accounts of any person or body.

(2) The Comptroller and Auditor General shall not without the consent of a Northern Ireland department charge a fee for auditing the accounts of a person or body whose functions are discharged on behalf of the Crown; and this Article shall not be construed as authorising the charging of a fee for the audit by agreement of the accounts of any other person or body unless the agreement so provides.