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STATUTORY INSTRUMENTS

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**1987 No. 460 (N.I. 5)**

**NORTHERN IRELAND**

**The Audit (Northern Ireland) Order 1987**

*Made - - - - 18th March 1987  
Coming into operation in accordance with Article 1(2)  
and (3)*

At the Court at Buckingham Palace, the 18th day of March 1987

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of the Order has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 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 Audit (Northern Ireland) Order 1987.

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

(3) The repeal of section 28(5) of the Act of 1921 shall not come into operation until the end of the period of 6 months beginning with the appointed day; and until the end of that period paragraph 4(1) of Schedule 1 shall have effect as if the reference to the Northern Ireland Audit Office included a reference to the Exchequer and Audit Department.

**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—

- “the Act of 1921” means the Exchequer and Audit Act (Northern Ireland) 1921;
- “the appointed day” means 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;
- “the interim period” has the meaning assigned to it by section 1(4) of the Northern Ireland Act 1974;
- “statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

## 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.—(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.

(2) In relation to any time before the first resolution under paragraph (1) takes effect, there shall be payable to the holder of the office of Comptroller and Auditor General a salary in accordance with the relevant scale of salaries.

(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, 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).

(6) In this Article—

“salary” does not include any amount certified by the Department to be a discretionary payment or a payment related solely to performance;

“relevant scale of salaries” means the scale of salaries for the time being payable to a Permanent Secretary of a Northern Ireland department or, where there are two or more such scales, the higher or highest of those scales.

(7) During the interim period this Article shall have effect as if—

(a) in paragraph (1) for the words from “a resolution of the Assembly” to the end there were substituted the words

“an order made by the Secretary of State; and an order under this paragraph—

(a) shall take effect from such date (whether before or after the working of the order)

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.”;

(b) in paragraph (2) for the word “resolution” there were substituted the word “order”.

#### **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 the expenses of the Northern Ireland Audit Office; and that estimate with such modifications, if any, as may be agreed between the Department and the Comptroller and Auditor General shall be laid by the Department before the Assembly.

(3) The Department shall appoint a person to be responsible as accounting officer for preparing appropriation accounts for the Northern Ireland Audit Office, that is to say, accounts of the appropriation of the supply granted for that Office by the Appropriation Measure of each 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 his functions in respect of any audit or examination shall be charged on and issued out of the Consolidated Fund.

(6) During the interim period paragraph (2) shall have effect as if for the words “laid by the Department before the Assembly” there were substituted the words “sent by the Department to the Secretary of State and laid by him before Parliament”.

#### **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.

(3) Any fee received by the Comptroller and Auditor General by virtue of this Article shall be paid by him into the Consolidated Fund.

## PART III

### ECONOMY, EFFICIENCY AND EFFECTIVENESS EXAMINATIONS

#### **Northern Ireland departments, public bodies, etc.**

**8.—**(1) The Comptroller and Auditor General may carry out examinations into the economy, efficiency and effectiveness with which any department, authority or other body to which this Article applies has used its resources in discharging its functions.

(2) Paragraph (1) shall not be construed as entitling the Comptroller and Auditor General to question the merits of the policy objectives of any department, authority or body in respect of which an examination is carried out.

(3) Subject to paragraphs (4) and (5), this Article applies to—

- (a) any department in respect of which appropriation accounts are required to be prepared under the Act of 1921;
- (b) any body required to keep accounts under Article 90 of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (c) any other authority or body whose accounts are required to be examined and certified by, or are open to the inspection of, the Comptroller and Auditor General by virtue of any statutory provision, including a statutory provision passed or made after the making of this Order; and
- (d) any authority or body which does not fall within Article 9 and whose accounts are required to be examined and certified by, or are open to the inspection of, the Comptroller and Auditor General by virtue of any agreement made, whether before or after the making of this Order, between that authority or body and a Northern Ireland department.

(4) Where the functions of the Comptroller and Auditor General in relation to any authority or body falling within paragraph (3)(c) or (d) are by the statutory provision or agreement in question restricted to particular activities of the authority or body, any examination under this Article in respect of that authority or body shall be correspondingly restricted.

(5) No examination shall be carried out under this Article by the Comptroller and Auditor General in respect of an authority or body falling within paragraph (3)(d) unless the carrying out of such an examination is included (expressly or by implication) in the functions exercisable by him under the agreement in question; but where—

- (a) the agreement was made by a Northern Ireland department before the appointed day and is not such as to allow any such examination; or
- (b) a Northern Ireland department makes an agreement after the appointed day for the exercise by the Comptroller and Auditor General in respect of any authority or body of any such functions as are mentioned in paragraph (3)(d),

that Department shall, if so requested by the Comptroller and Auditor General, use its best endeavours to secure from the authority or body in question such rights as will enable examinations under this Article to be carried out in respect of that authority or body.

(6) In this Article—

“authority” includes any person holding a public office;

“policy”, in relation to any Northern Ireland department, includes any government policy so far as relating to the functions of that department; and references to an agreement made by a Northern Ireland department include references to conditions imposed by it in pursuance of any statutory power in that behalf, whether in connection with the provision of financial assistance or otherwise.

### **Other bodies mainly supported by public funds**

9.—(1) If the Comptroller and Auditor General has reasonable cause to believe that any authority or body to which this Article applies has in any of its financial years received more than half its income from public funds he may carry out an examination into the economy, efficiency and effectiveness with which it has in that year used its resources in discharging its functions.

(2) Paragraph (1) shall not be construed as entitling the Comptroller and Auditor General to question the merits of the policy objectives of any authority or body in respect of which an examination is carried out.

(3) In determining for the purposes of paragraph (1) whether the income of an authority or body is such as to bring it within that paragraph the Comptroller and Auditor General shall consult that authority or body and the Department.

(4) This Article applies to any authority or body appointed, or whose members are required to be appointed, by or on behalf of the Crown except—

- (a) the Northern Ireland Electricity Service;
- (b) the Northern Ireland Transport Holding Company.

(5) For the purposes of this Article money is received from public funds if it is paid—

- (a) by a Northern Ireland department out of moneys appropriated by Measure or as a loan from the Consolidated Fund;
- (b) by an authority or body which itself falls within paragraph (1), including an authority or body falling within that paragraph by virtue of this sub-paragraph;

but, in either case, there shall be disregarded any money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office.

(6) In this Article “income” includes capital receipts and “authority” has the same meaning as in Article 8.

### **Right to obtain documents and information**

10.—(1) Subject to paragraph (2), the Comptroller and Auditor General shall have a right of access at all reasonable times to all such documents as he may reasonably require for carrying out any examination under Article 8 or 9 and shall be entitled to require from any person holding or accountable for any such document such information and explanation as are reasonably necessary for that purpose.

(2) Paragraph (1) applies only to documents in the custody or under the control of the department, authority or body to which the examination relates.

### **Reports to the Assembly**

11.—(1) The Comptroller and Auditor General may report to the Assembly the results of any examination carried out by him under Article 8 or 9.

(2) Subject to paragraph (3), during the interim period paragraph (1) shall have effect as if for the words “the Assembly” there were substituted the words “the House of Commons”.

(3) During any period for which an Order is in force under section 2(1)(b) of the Northern Ireland Act 1982, paragraph (2) shall not apply to any report relating only to specified matters or the specified Department within the meaning of part II of Schedule 1 to that Act.

## PART IV

### MISCELLANEOUS AND SUPPLEMENTARY

#### **Form of appropriation accounts**

12. Section 12 of the Act of 1921 (which prescribes the form of appropriation accounts) shall cease to have effect.

#### **Examination of appropriation accounts**

13. In the Act of 1921—

- (a) in section 15 the words from “Provided that” to “action accordingly” (which enable the Department to require the Comptroller and Auditor General to examine vouchers) shall cease to have effect;
- (b) in section 16 for the words from the beginning to “such authority” (which enable the Department to require the Comptroller and Auditor General to ascertain whether any expenditure is supported by the authority of the Department) there shall be substituted the words

“If in examining an appropriation account it appears to the Comptroller and Auditor General that the account includes any material expenditure requiring the authority of the Department of Finance and Personnel which has been incurred without such authority he shall report that fact to that Department.”

#### **Examination of other accounts**

14.—(1) For section 20 of the Act of 1921 there shall be substituted the following section—

##### **“20 Examination of accounts specified by order.**

(1) The Comptroller and Auditor General shall examine the accounts of any person or body specified by an order made by the Department of Finance and Personnel; and no such order shall be made unless a draft of it has been laid before and approved by a resolution of the Assembly.

(2) The Comptroller and Auditor General shall make any examination required under paragraph (1) with as little delay as possible, and when the examination of any account has been completed shall sign a certificate to the account recording the result of his examination, and a copy of the account so certified shall be sent to the person or body in question.”

(2) In the Act of 1921 the following provisions shall cease to have effect, namely—

- (a) section 20A (audit of accounts of charities); and
- (b) in section 23 the words from “If, in the course” to the end (settlement of disputes between Comptroller and Auditor General and persons rendering accounts).

### **Amendment and Repeals**

**15.**—(1) References to the Exchequer and Audit Department in any statutory provision or document passed or made before 1st April 1987 shall, in relation to any time after that day, be construed as references to the Northern Ireland Audit Office.

(2) The statutory provisions mentioned in Schedule 3 are hereby repealed to the extent specified in the third column of that Schedule.

*G. I. de Deney*  
Clerk of the Privy Council.

## SCHEDULES

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Article 5(2).

### THE NORTHERN IRELAND AUDIT OFFICE: SUPPLEMENTARY PROVISIONS

#### PART I

#### INCORPORATION OF COMPTROLLER AND AUDITOR GENERAL

##### *Incorporation of Comptroller and Auditor General*

1. The person for the time being holding the office of Comptroller and Auditor General shall by that name be a corporation sole.

#### PART II

#### STAFF OF NORTHERN IRELAND AUDIT OFFICE

##### *Appointment*

2.—(1) The Comptroller and Auditor General shall appoint such staff for the Northern Ireland Audit Office as he considers necessary for assisting him in the discharge of his functions.

(2) The Comptroller and Auditor General and a Northern Ireland department may make arrangements—

(a) for the appointment by the Comptroller and Auditor General under sub-paragraph (1) of persons employed in the civil service of Northern Ireland;

(b) for the appointment to employment in the civil service of Northern Ireland of members of the staff of the Northern Ireland Audit Office.

(3) Arrangements under sub-paragraph (2)(a) or (b)—

(a) shall, if made by the Comptroller and Auditor General with any Northern Ireland department other than the Department, be subject to the approval of the Department;

(b) shall not provide for the appointment of any person without his consent;

(c) may provide for appointments of unlimited duration or for appointments on secondment;

(d) may include such other provisions as the Comptroller and Auditor General and the Northern Ireland department think fit.

(4) Arrangements under sub-paragraph (2)(b) shall not provide for the appointment of any member of the staff of the Northern Ireland Audit Office to employment in the civil service of Northern Ireland for an unlimited period unless that person became a member of the staff of that Office in consequence of paragraph 5.



*Remuneration, terms and conditions*

3.—(1) The staff of the Northern Ireland Audit Office shall be appointed at such remuneration and on such other terms and conditions as the Comptroller and Auditor General may determine; and in exercising his powers under this subparagraph the Comptroller and Auditor General shall have regard to the desirability of keeping the remuneration and other terms and conditions of employment of the staff of that Office broadly in line with those applying to persons employed in the National Audit Office established under section 3 of the National Audit Act 1983 and in the civil service of Northern Ireland.

(2) Employment as a member of the staff of the Northern Ireland Audit Office shall be treated for the purposes of the Superannuation (Northern Ireland) Order 1972 as employment in the civil service of Northern Ireland.

(3) Except for the purposes of section 2 of the Official Secrets Act 1911 (wrongful communication of information) neither the Comptroller and Auditor General nor any member of the staff of the Northern Ireland Audit Office shall be regarded as holding office under Her Majesty or as discharging any functions on behalf of the Crown.

(4) In part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) there shall be inserted at the appropriate place the words “Members of the staff of the Northern Audit Office”.

*Exercise of functions of Comptroller and Auditor General by staff*

4.—(1) Subject to sub-paragraphs (2) and (3), anything which under any statutory provision is required or authorised to be done by the Comptroller and Auditor General may be done by a member of the staff of the Northern Ireland Audit Office authorised for that purpose by the Comptroller and Auditor General.

(2) An authority given under sub-paragraph (1) to certify and report on accounts for the Assembly—

- (a) shall extend only to accounts in respect of which the presiding officer of the Assembly has certified to the Assembly that the Comptroller and Auditor General is unable to do so himself; and
- (b) shall cease on a vacancy arising in the office of Comptroller and Auditor General.

(3) During the interim period, an authority given under sub-paragraph (1) to certify and report on accounts for the House of Commons or each House of Parliament—

- (a) shall extend only to accounts in respect of which the Speaker of the House of Commons has certified to that House or, as the case may be, the Speaker has certified to that House and the Lord Chancellor to the House of Lords, that the Comptroller and Auditor General is unable to do so himself; and
- (b) shall cease on a vacancy arising in the office of Comptroller and Auditor General.

*Transfer of staff of Exchequer and Audit Department*

5.—(1) It shall be the duty of the Comptroller and Auditor General to make, by the end of the period of three months beginning with the appointed day, an offer of employment as a member of the staff of the Northern Ireland Audit Office to each person who, immediately before the appointed day—

- (a) is employed in the civil service of Northern Ireland in the Exchequer and Audit Department; and

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(b) is not so employed by virtue of a temporary transfer from a Northern Ireland department; and the terms of the offer must be such that they are, taken as a whole, not less favourable to the person to whom the offer is made than the terms on which he is employed on the date on which the offer is made.

(2) An offer made in pursuance of this paragraph to a person who, immediately before the appointed day—

(a) is employed as mentioned in sub-paragraph (1)(a); and

(b) is employed by virtue of a permanent transfer from a Northern Ireland department,

shall include a term conferring on that person a right at any time within the period of three years beginning with the appointed day to request the Comptroller and Auditor General to seek to make arrangements in accordance with paragraph 2(2) for the appointment of that person to employment in the civil service of Northern Ireland for an unlimited period.

(3) An offer made in pursuance of this paragraph shall not be revocable during the period of three months beginning with the date on which it is made.

(4) Where a person becomes a member of the staff of the Northern Ireland Audit Office in consequence of this paragraph then, for the purposes of the Contracts of Employment and Redundancy Payments Act (Northern Ireland) 1965 and the Industrial Relations (Northern Ireland) Orders 1976 to 1983, his period of employment in the civil service of Northern Ireland shall count as a period of employment as a member of the staff of that Office and the change of employment shall not break the continuity of the period of employment.

(5) Where an offer is made to any person in pursuance of this paragraph none of the agreed redundancy procedures applicable to persons employed in the civil service of Northern Ireland shall apply to him; and if he ceases to be employed as mentioned in sub-paragraph (1)(a)—

(a) on becoming a member of the staff of the Northern Ireland Audit Office in consequence of this paragraph; or

(b) having unreasonably refused an offer made to him in pursuance of this paragraph, he shall not, on ceasing to be so employed, be treated for the purposes of any scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 as having been retired on redundancy.

(6) Any question arising in relation to a person as to—

(a) whether he was employed as mentioned in sub-paragraph (1) or (2); or

(b) whether an offer of employment made to him by the Comptroller and Auditor General complies with the requirements of sub-paragraph (1) or (2), shall, if not otherwise determined, be referred for determination by an industrial tribunal whose decision shall be final.

### PART III

#### TRANSFER OF CERTAIN ASSETS AND LIABILITIES TO NORTHERN IRELAND AUDIT OFFICE

6.—(1) On the appointed day—

(a) all assets (other than land) held or used immediately before that date by the Exchequer and Audit Department in connection with the functions of the Comptroller and Auditor General; and

(b) all liabilities to which the Exchequer and Audit Department is subject immediately before that date,

shall be transferred to the Northern Ireland Audit Office, and accordingly, as from the appointed day, by virtue of this Order and without any further transfer or assignment, those assets shall vest in, and those liabilities shall become liabilities of, the Northern Ireland Audit Office.

(2) A certificate issued by the Department that any asset or liability has, by virtue of sub-paragraph (1), been transferred to the Northern Ireland Audit Office shall, for all purposes, be conclusive evidence of that fact.

## THE AUDITOR OF THE NORTHERN IRELAND AUDIT OFFICE

1.—(1) The auditor shall be a member of one or more of the bodies mentioned in sub-paragraph (2) or shall have such other qualifications as may be approved for the purposes of this Schedule by the Department; and a firm shall not be appointed unless each of its members is a member of one or more of those bodies.

(2) The bodies referred to in sub-paragraph (1) are—

- (a) the Institute of Chartered Accountants in England and Wales;
- (b) the Institute of Chartered Accountants of Scotland;
- (c) the Chartered Association of Certified Accountants;
- (d) the Chartered Institute of Public Finance and Accountancy;
- (e) the Institute of Chartered Accountants in Ireland; and
- (f) any other body of accountants established in the United Kingdom and for the time being approved by the Department for the purposes of this Schedule.

(3) The auditor shall be appointed at such remuneration and on such other terms and conditions as the Department may determine; and the remuneration of the auditor shall be defrayed as part of the expenses of the Northern Ireland Audit Office.

2. The auditor shall have power to carry out economy, efficiency and effectiveness examinations of the use of resources by the Northern Ireland Audit Office.

3. The auditor shall have a right of access at all reasonable times to all such documents as appear to him necessary for the purposes of the audit and shall be entitled to require from any person holding or accountable for any such documents such information and explanation as he thinks necessary for those purposes.

4.—(1) The provisions of section 15 of the Act of 1921 (examination of appropriation accounts) shall, with the necessary modifications, apply to the examination by the auditor of the appropriation accounts of the Northern Ireland Audit Office as they apply to the examination by the Comptroller and Auditor General of the appropriation accounts of a Northern Ireland Department.

(2) On completion of his examination the auditor shall certify the appropriation account and submit it, together with his report thereon, to the Department for presentation to the Assembly.

(3) During the interim period sub-paragraph (2) shall have effect as if for the words “Department for presentation to the Assembly” there were substituted the words “Secretary of State for presentation to the House of Commons”.

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## REPEALS

Chapter	Short Title	Extent of Repeal
1921 c. 2 (N.I.).	The Exchequer and Audit Act (Northern Ireland) 1921.	Section 12. In section 15 the words from “Provided that” to “action accordingly”. Section 20A. In section 23 the words from “If, in the course” to the end. Section 28(2), (4), (5) and (6).
1958 c. 20 (N.I.).	The Administrative and Financial Provisions Act (Northern Ireland) 1958.	Section 1.
1973 NI 14.	The Salaries (Comptroller and Auditor-General and Others) (Northern Ireland) Order 1973.	In Article 2(2) the definition of “Comptroller and Auditor-General”. In Article 4(1) and (2) the words “the Comptroller and Auditor-General”. In Schedule 1 the amendment to the Act of 1921.

## EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order establishes the Northern Ireland Audit Office and makes provision for the salary and pension of the Comptroller and Auditor General and for the exercise by him of his functions.

The Order also makes new provision enabling the Comptroller and Auditor General to conduct economy, efficiency and effectiveness examinations in relation to government departments and other authorities and bodies.