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STATUTORY INSTRUMENTS

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**2003 No. 418**

**The Audit and Accountability (Northern Ireland) Order 2003**

*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).

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**Modifications etc. (not altering text)**

- C1** Art. 3 applied by 2000 (c. 32), s. 29(3) (as substituted (12.4.2010) by by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 56(b)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)**
- C2** Art. 3 applied by 2000 (c. 32), s. 30(4) (as substituted (12.4.2010) by by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 5, **Sch. 3 para. 57(5)** (with arts. 28-31)); S.I. 2010/977, **art. 1(2)**

#### **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).

**Changes to legislation:**

There are currently no known outstanding effects for the The Audit and Accountability (Northern Ireland) Order 2003, Access to information for purposes of audit or examination.