

1993 No. 67

COMPANIES

Companies (1990 Order) (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations (Northern Ireland) 1993

Made 18th February 1993

Coming into operation 29th March 1993

The Department of Economic Development, in exercise of the powers conferred on it by Article 52(1) to (4) of the Companies (Northern Ireland) Order 1990(a) and of every other power enabling it in that behalf, and having obtained the consent of the Lord Chancellor(b), the Secretary of State for Trade and Industry, the Secretary of State for Health and those Departments whose consent it is required to obtain by virtue of Article 52(5) of that Order, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Companies (1990 Order) (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations (Northern Ireland) 1993 and shall come into operation on 29th March 1993.

(2) In these Regulations, “the Order” means the Companies (Northern Ireland) Order 1990.

Consequential amendments

2. The statutory provisions mentioned in the Schedule shall have effect with the amendments specified therein.

3. Where a partnership constituted under the law of Northern Ireland or under the law of any other country or territory in which a partnership is not a legal person is appointed under any statutory provision as amended by these Regulations, the provisions of Article 29 of the Order shall apply to the appointment in the same way as they apply to the appointment as company auditor of such a partnership.

Transitional provision

4. None of the amendments specified in the Schedule shall have the effect that a person is required to resign from or otherwise surrender an appointment, or that the appointment of a person must be terminated, before

(a) S.I. 1990/593 (N.I. 5)

(b) Functions of the Secretary of State under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, S.I. 1981/228 (N.I. 8), transferred to the Lord Chancellor by S.I. 1982/159.

the date on which the person's appointment would, apart from these Regulations, have expired.

Sealed with the Official Seal of the Department of Economic Development on 18th February 1993.

(L.S.)

A. L. Brown

Assistant Secretary

I consent,

Dated 12th January 1993

Mackay of Clashfern, C.

I consent

Michael Heseltine

Dated 25th January 1993

Secretary of State
Department of Trade and Industry

I consent

Virginia Bottomley

Dated 15th February 1993

Secretary of State
Department of Health

The Department of Agriculture hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Agriculture on 17th February 1993.

(L.S.)

R. S. Johnston

Assistant Secretary

The Department of Health and Social Services hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Health and Social Services on 17th February 1993.

(L.S.)

J. Scott

Assistant Secretary

The Department of the Environment hereby consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of the Environment on
17th February 1993.

(L.S.)

D. S. S. McAuley

Assistant Secretary

AMENDMENTS TO STATUTORY PROVISIONS

Pig Production Development Act (Northern Ireland) 1964(a)

1. In section 10(1) of the Pig Production Development Act (Northern Ireland) 1964 (accounts, audit and reports of the Pig Production Development Fund) for the words from “such member” to the end substitute “a person who is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

Fisheries Act (Northern Ireland) 1966(b)

2. In section 31 of the Fisheries Act (Northern Ireland) 1966 (audit of accounts of the Fisheries Conservancy Board for Northern Ireland) for the words from “unless he is a member” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

Livestock Marketing Commission Act (Northern Ireland) 1967(c)

3. In section 9(2) of the Livestock Marketing Commission Act (Northern Ireland) 1967 (audit of accounts of the Livestock Marketing Commission for Northern Ireland) for the words from “unless he is a member” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

Industrial and Provident Societies Act (Northern Ireland) 1969(d)

4.—(1) The Industrial and Provident Societies Act (Northern Ireland) 1969 shall be amended as follows.

(2) In section 41 (qualified auditors), in subsection (1) for the words from “he is either a member” to the end substitute “he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

(3) In section 42 (restrictions on appointment of auditors)—

(a) paragraph (c) of subsection (1) and subsection (3) shall cease to have effect; and

(b) in subsection (1) for paragraph (e) substitute—

“(e) a person who is by virtue of Article 30 of the Companies (Northern Ireland) Order 1990 ineligible for appointment as auditor of a company which is a subsidiary of that society.”.

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- (a) 1964 c. 25 (N.I.). Section 10(1) has been amended by Article 153(1) of, and Part II of Schedule 6 to, the Companies (Northern Ireland) Order 1978 (S.I. 1978/1042 (N.I. 12)) and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I. 9)).
- (b) 1966 c. 17 (N.I.). Section 31 has been amended by Article 153(1) of, and Part II of Schedule 6 to, the Companies (Northern Ireland) Order 1978 and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
- (c) 1967 c. 21 (N.I.). Section 9(2) has been amended by Article 153(1) of, and Part II of Schedule 6 to, the Companies (Northern Ireland) Order 1978 and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
- (d) 1969 c. 24 (N.I.). Section 41(1) has been amended by Article 153(1) of, and Part II of Schedule 6 to, the Companies (Northern Ireland) Order 1978 and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.

Friendly Societies Act (Northern Ireland) 1970(a)

5.—(1) The Friendly Societies Act (Northern Ireland) 1970 shall be amended as follows.

(2) In section 29 (qualified auditors), in subsection (1) for the words from “he is either a member” to the end substitute “he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

(3) In section 30 (restrictions on appointment of auditors), paragraph (c) of subsection (1) and subsection (2) shall cease to have effect.

Electricity Supply (Northern Ireland) Order 1972(b)

6. In Article 24 of the Electricity Supply (Northern Ireland) Order 1972 (audit of accounts of Northern Ireland Electricity) for the words from “unless he is a member” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

Insurance Brokers (Registration) Act 1977(c)

7.—(1) The Insurance Brokers (Registration) Act 1977 shall be amended as follows.

(2) In section 11 (requirements for carrying on business)—

(a) in subsection (4), for the words from “by the Department of Economic Development” to the end substitute “under Article 28 of the Companies (Northern Ireland) Order 1990.”; and

(b) in subsection (5), after the words “Companies Act 1989” insert “or Article 30 of the Companies (Northern Ireland) Order 1990.”.

(3) In section 25 (accounts of Council) in subsection (2), after the words “Companies Act 1989” insert “or Article 28 of the Companies (Northern Ireland) Order 1990.”.

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- (a) 1970 c. 31 (N.I.). Section 29 has been amended by Article 153(1) of, and Part II of Schedule 6 to, the Companies (Northern Ireland) Order 1978 and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
- (b) S.I. 1972/1072 (N.I. 9) which is repealed by Article 94(4) of and Schedule 14 to the Electricity (Northern Ireland) Order 1992 (S.I. 1992/231 (N.I. 1)). However, Article 24 is preserved for certain purposes by Article 95(3) of, and paragraph 28(1) of Schedule 13 to, that Order of 1992. Article 24 has been amended by Article 153(1) of, and Part II of Schedule 6 to, the Companies (Northern Ireland) Order 1978 and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
- (c) 1977 c. 46 Section 11 has been amended by Article 23 of, and Part II of Schedule 6 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986. Sections 11, 25 and 29 have also been amended by regulation 2 of, and paragraph 30 of the Schedule to, the Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991 (S.I. 1991/1997).

Nurses, Midwives and Health Visitors Act 1979(a)

8. In the Nurses, Midwives and Health Visitors Act 1979—

- (a) in subsection (2A) of section 20, after the words “Companies Act 1989” insert “or, in the case of the National Board for Nursing, Midwifery and Health Visiting for Northern Ireland, Article 28 of the Companies (Northern Ireland) Order 1990.”;
- (b) Schedule 4 shall cease to have effect;
- (c) in paragraph 1 of Schedule 6 the reference to Schedule 4 shall be deleted; and
- (d) in the Table in paragraph 2 of Schedule 6 the entries relating to Schedule 4, paragraph 3 shall be deleted.

Estate Agents Act 1979(b)

9. In section 14 of the Estate Agents Act 1979 (keeping of client accounts)—

(a) for subsection (6)(b) substitute—

“(b) in Northern Ireland, is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”;

and

(b) in subsection (7) after the words “Companies Act 1989” insert “or Part III of the Companies (Northern Ireland) Order 1990.”.

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981(c)

10. In Article 20 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (accounts and audit), for paragraph (3) substitute—

“(3) A person shall not be appointed as an auditor in pursuance of paragraph (2) unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

Industrial Training (Northern Ireland) Order 1984(d)

11. In Article 21(2) of the Industrial Training (Northern Ireland) Order 1984 for the words from “unless he is qualified” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

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- (a) 1979 c. 36. Subsection (2A) of section 20 was inserted and Schedule 4 repealed (except insofar as it applies to Northern Ireland) by regulation 2 of, and paragraph 32 of the Schedule to, the Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991. Section 20(5) has been amended by section 16 of, and paragraph 7 of Schedule 2 to, the Nurses, Midwives and Health Visitors Act 1992 (c. 16).
 - (b) 1979 c. 38. Section 14 has been amended by Article 23 of, and Part II of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 and by regulation 2 of, and paragraph 33 of the Schedule to, the Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991.
 - (c) S.I. 1981/228 (N.I. 8). Article 20 has been amended by S.I. 1982/159 and by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
 - (d) S.I. 1984/1159 (N.I. 9) as amended by S.I. 1990/1200 (N.I. 8). Article 21 has been amended by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.

Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985(a)

12. In Article 2(2) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (interpretation), for the definition of “qualified accountant” substitute “ “qualified accountant” means a person who is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990;”.

Credit Unions (Northern Ireland) Order 1985(b)

13. In Article 46 of the Credit Unions (Northern Ireland) Order 1985—

- (a) in paragraph (1) for the words from “unless he is a member” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”; and
- (b) sub-paragraph (c) of paragraph (2) and paragraph (4) shall cease to have effect.

Seed Potatoes (Levy) Order (Northern Ireland) 1985(c)

14. In Article 10(2) of the Seed Potatoes (Levy) Order (Northern Ireland) 1985 (accounts of the Company) for the words from “qualified for appointment” to the end substitute “who is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

Companies (Northern Ireland) Order 1986(d)

15.—(1) The Companies (Northern Ireland) Order 1986 shall be amended as follows.

(2) In Article 634 (registration of joint stock company as public company), in paragraph (6), in the definition of “accountant with the appropriate qualifications” for the words from “a person” to “Article 397” substitute “a person who would be eligible”.

(3) In Article 665(2) (partnerships exempt from limit of 20 members under paragraph (1)), in sub-paragraph (b) (firms of accountants) for “a partnership consisting of persons each of whom falls within Article 397(1)(a) or (b) (qualifications of company auditors)” substitute “a partnership which is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990”.

(4) In Article 666(1) (partnerships exempt from limit of 20 members under section 4(2) of the Limited Partnerships Act 1907(e)), in sub-paragraph (b) (firms of accountants) for “and consisting of persons each of whom falls within Article 397(1)(a) or (b) (qualifications of company auditors)” substitute “which is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990”.

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- (a) S.I. 1985/1204 (N.I. 11). Article 2(2) has been amended by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
 - (b) S.I. 1985/1205 (N.I. 12). Article 46(1) has been amended by Article 23 of, and Part I of Schedule 1 to, the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.
 - (c) S.R. 1985 No. 1 to which there are amendments not relevant to these Regulations.
 - (d) S.I. 1986/1032 (N.I. 6)
 - (e) 1907 c. 24

Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986(a)

16. In regulation 7 of the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986—

- (a) in paragraph (3) for the words from “qualified to act” to “the Department” substitute “who is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990”, and
- (b) in paragraph 3(e) for the words from “Article 397” to “1986” substitute “Article 30 of the Companies (Northern Ireland) Order 1990”.

Registration of Clubs (Northern Ireland) Order 1987(b)

17. In Article 2(2) of the Registration of Clubs (Northern Ireland) Order 1987 (interpretation), for the definition of “qualified accountant” substitute ““qualified accountant” means a person who is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990;”.

Income and Corporation Taxes Act 1988(c)

18. In section 184 of the Income and Corporation Taxes Act 1988 (independent accountants) in subsection (1)(a), for the words from “or Article 397(1)(a) to “auditor)” substitute “or Article 28 of the Companies (Northern Ireland) Order 1990”.

Laganside Development (Northern Ireland) Order 1989(d)

19. In paragraph 17 of Schedule 1 to the Laganside Development (Northern Ireland) Order 1989 (accounts and audit)—

- (a) in sub-paragraph (2), for the words from “unless he is qualified” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”; and
- (b) in sub-paragraph (3), head (c) shall cease to have effect.

Milk Marketing Scheme (Northern Ireland) 1989

20. In Article 45(1) of the Milk Marketing Scheme (Northern Ireland) 1989 (which is set out in the Milk Marketing Scheme (Approval) Order (Northern Ireland) 1989(e) (accounts)) for the words from “by a member” to “1986(b)” substitute “by a person who is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990”.

Horse Racing (Northern Ireland) Order 1990(f)

21. In Article 10(2) of the Horse Racing (Northern Ireland) Order 1990 (accounts, etc.), for the words from “unless he is a member” to the end substitute “unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”.

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- (a) S.R. 1986 No. 225 amended by S.R. 1986 No. 319, S.R. 1987 No. 283, S.R. 1988 No. 109, S.R. 1989 No. 372, S.R. 1991 No. 37, S.R. 1992 No. 47 and S.R. 1992 No. 304.
 - (b) S.I. 1987/1278 (N.I. 14)
 - (c) 1988 c. 1. Section 184 has been amended by regulation 2 of, and paragraph 68 of the Schedule to, the Companies Act 1989 (Eligibility for Appointment as Company Auditor) (Consequential Amendments) Regulations 1991.
 - (d) S.I. 1989/490 (N.I. 2)
 - (e) S.R. 1989 No. 48
 - (f) S.I. 1990/1508 (N.I. 12)

Industrial Relations (Northern Ireland) Order 1992(a)

22. In Schedule 1 to the Industrial Relations (Northern Ireland) Order 1992 (administrative provisions relating to trade unions and employers' associations)—

(a) for paragraphs 6, 7 and 8 substitute—

“6. Subject to paragraph 9, a person shall not be qualified to be the auditor or one of the auditors of a trade union or employers' association unless he is eligible for appointment as a company auditor under Article 28 of the Companies (Northern Ireland) Order 1990.”;

(b) in paragraph 10(1), head (c) shall cease to have effect; and

(c) in paragraph 13(4) for the words “paragraphs 6 to 9” substitute “paragraphs 6 and 9”.

(a) S.I. 1992/807 (N.I. 5)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

Regulation 2 of, and the Schedule to, these Regulations make amendments to the statutory provisions mentioned in the Schedule which are consequential upon the provisions of Part III of the Companies (Northern Ireland) Order 1990 (eligibility for appointment as company auditor) having effect in place of Article 397 of the Companies (Northern Ireland) Order 1986 (“the 1986 Order”) (qualification for appointment as auditor). Article 397 of the 1986 Order is repealed on 29th March 1993.

Regulation 3 makes provision as to what the effect is when a partnership which is not a legal person is appointed under a statutory provision amended by the Regulations and regulation 4 contains a transitional provision concerning the position of persons holding an appointment when the Regulations come into operation.