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STATUTORY INSTRUMENTS

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**1986 No. 1032**

**The Companies (Northern Ireland) Order 1986**

**PART XXV**

**MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS**

*Arts. 665#666 rep. by 2003 NI 17*

***Unregistered companies***

**667.**—(1) The provisions of this Order specified in the first column of Schedule 21 (relating respectively to the matters specified in the second column of the Schedule) apply to all bodies corporate incorporated in and having a principal place of business in Northern Ireland, other than those mentioned in paragraph (2), as if they were companies registered under this Order, but subject to any limitations mentioned in relation to those provisions respectively in the third column and to such adaptations and modifications (if any) as may be specified by regulations made by the Department.

(2) The said provisions do not apply by virtue of this Article to any of the following—

- (a) any body incorporated by or registered under any statutory provision,
- (b) any body not formed for the purpose of carrying on a business which has for its object the acquisition of gain by the body or its individual members,
- (c) any body for the time being exempted by direction of the Department.

[<sup>F1</sup>(d) any open#ended investment company within the meaning of the Open#Ended Investment Companies Regulations (Northern Ireland) 2004.]

(3) Where against any provision of this Order specified in the first column of Schedule 21 there appears in the third column the entry “Subject to Article 667(3)”, it means that the provision is to apply by virtue of this Article so far only as may be specified by regulations made by the Department and to such bodies corporate as may be so specified.

(4) The provisions specified in the first column of the Schedule also apply in like manner in relation to any unincorporated body of persons entitled by virtue of letters patent to any of the privileges conferred by the Chartered Companies Act 1837 and not registered under any other statutory provision, but subject to the like exceptions as are provided for in the case of bodies corporate by paragraph (2)(b) and (c).

(5) This Article does not repeal or revoke in whole or in part any statutory provision, royal charter or other instrument constituting or regulating any body in relation to which the said provisions are applied by virtue of this Article or restrict the power of Her Majesty to grant a charter in lieu of or supplementary to any such charter as aforesaid; but, in relation to any such body, the operation of any such statutory provision, charter or instrument is suspended in so far as it is inconsistent with any of the said provisions as they apply for the time being to that body.

**Annotations:**

**F1** SR 2004/335

### ***Power of company to provide for employees on cessation or transfer of business***

**668.**—(1) The powers of a company include (if they would not otherwise do so apart from this Article) power to make the following provision for the benefit of persons employed or formerly employed by the company or any of its subsidiaries, that is to say, provision in connection with the cessation or the transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

(2) The power conferred by paragraph (1) is exercisable notwithstanding that its exercise is not in the best interests of the company.

(3) The power which a company may exercise by virtue only of paragraph (1) shall only be exercised by the company if sanctioned—

- (a) in a case not falling within sub-paragraph (b) or (c), by an ordinary resolution of the company, or
- (b) if so authorised by its memorandum or articles, by a resolution of the directors, or
- (c) if its memorandum or articles require the exercise of the power to be sanctioned by a resolution of the company of some other description for which more than a simple majority of the members voting is necessary, with the sanction of a resolution of that description;

and in any case after compliance with any other requirements of its memorandum or articles applicable to its exercise.

(4) Any payment which may be made by a company under this Article may, if made before the commencement of any winding up of the company, be made out of profits of the company which are available for dividend.

### ***Certain companies to publish periodical statement***

**669.** <sup>F2</sup> .....

#### **Annotations:**

**F2** Art. 669 repealed (6.4.2007) by Companies Act 2006 (c. 46), ss. 1284(2), 1295, 1300(2), Sch. 16; S.I. 2006/3428, arts. 4(2)(a), 7(c), Sch. 4 Pt. 2 (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

### ***Production and inspection of books where offence suspected***

**670.**—(1) This Article applies if, on an application made in accordance with rules of court to the High Court by the Director of Public Prosecutions for Northern Ireland, the Department or a chief superintendent of the Royal Ulster Constabulary there is shown to be reasonable cause to believe that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs and that evidence of the commission of the offence is to be found in any books or papers of or under the control of the company.

(2) An order may be made—

- (a) authorising any person named in it to inspect the books or papers in question, or any of them, for the purpose of investigating and obtaining evidence of the offence, or
- (b) <sup>F3</sup> requiring the secretary of the company or such other officer of it as may be named in the order to produce the books or papers (or any of them) to a person named in the order at a place so named.

(3) Paragraph (2) applies also in relation to any books or papers of a person carrying on the business of banking so far as they relate to the company's affairs, as it applies to any books or papers of or under the control of the company, except that no such order as is referred to in paragraph (2) (b) shall be made by virtue of this paragraph.

(4) The decision of the High Court on an application under this Article is not appealable.

**Annotations:**

**F3** mod. by SR 2004/307

***Form of company registers, etc.***

**671**<sup>F4</sup>.—(1) Any register, index, minute book or accounting records required by the Companies Orders to be kept by a company may be kept either by making entries in bound books or by recording the matters in question in any other manner.

(2) Where any such register, index, minute book or accounting record is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery.

(3) If default is made in complying with paragraph (2), the company and every officer of it who is in default is liable to a fine and, for continued contravention, to a daily default fine.

**Annotations:**

**F4** mod. by SR 2004/307

***Use of computers for company records***

**672.**—(1) The power conferred on a company by Article 671 to keep a register or other record by recording the matters in question otherwise than by making entries in bound books includes power to keep the register or other record by recording those matters otherwise than in a legible form, so long as the recording is capable of being reproduced in a legible form.

(2)<sup>F5</sup> Any provision of an instrument made by a company before 1st January 1982 which requires a register of holders of the company's debentures to be kept in a legible form is to be read as requiring the register to be kept in a legible or non-legible form.

(3) If any such register or other record of a company as is mentioned in Article 671(1), or a register of holders of a company's debentures, is kept by the company by recording the matters in question otherwise than in a legible form, any duty imposed on the company by this Order to allow inspection of, or to furnish a copy of, the register or other record or any part of it is to be treated as a duty to allow inspection of, or to furnish, a reproduction of the recording or of the relevant part of it in a legible form.

(4) The Department may by regulations make such provision in addition to paragraph (3) as it considers appropriate in connection with such registers or other records as are mentioned in that paragraph and are kept as there mentioned; and the regulations may make modifications of provisions of this Order relating to such registers or other records.

**Annotations:**

**F5** mod. by SR 2004/307

**[<sup>F6</sup>Obligations of company as to inspection of registers, &c.**

[<sup>F6</sup>**672A**]<sup>F7</sup>.—(1) The Department may make provision by regulations as to the obligations of a company which is required by any provision of this Order—

- (a) to make available for inspection any register, index or document, or
- (b) to provide copies of any such register, index or document, or part of it;

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and a company which fails to comply with the regulations shall be deemed to have refused inspection or, as the case may be, to have failed to provide a copy.

(2) The regulations may make provision as to the time, duration and manner of inspection, including the circumstances in which and extent to which the copying of information is permitted in the course of inspection.

(3) The regulations may define what may be required of the company as regards the nature, extent and manner of extracting or presenting any information for the purposes of inspection or the provision of copies.

(4) Where there is power to charge a fee, the regulations may make provision as to the amount of the fee and the basis of its calculation.

(5) Nothing in any provision of this Order or in the regulations shall be construed as preventing a company from affording more extensive facilities than are required by the regulations or, where a fee may be charged, from charging a lesser fee than that prescribed or no fee at all.]

**Annotations:**

- F6 [1990 NI 10](#)
- F7 mod. by SR 2004/307

**Service of documents**

**673.** A document may be served on a company by leaving it at, or sending it by post to, the company's registered office.

**Annotations:**

- F6 [1990 NI 10](#)

**Costs and expenses in actions by certain limited companies**

**674** <sup>F8</sup>. Where a limited company is plaintiff in an action or other legal proceeding, the court having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the defendant's costs if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.

**Annotations:**

- F6 [1990 NI 10](#)
- F8 mod. by SR 2004/307

**Power of court to grant relief in certain cases**

**675.** <sup>F9</sup> .....

**Annotations:**

- F6 [1990 NI 10](#)
- F9 [Art. 675](#) repealed (1.10.2008) by [Companies Act 2006](#) (c. 46), ss. 1284(2), 1295, 1300(2), [Sch. 16](#); S.I. 2007/3495, [art. 8\(a\)](#), [Sch. 3 Pt. 2](#) (with arts. 7, 12)

### **Enforcement of High Court orders**

**676**<sup>F10</sup>. Orders made by the High Court under this Order may be enforced in the same manner as orders made in an action pending in that court.

**Annotations:**

**F6** 1990 NI 10

**F10** mod. by SR 2004/307

### **Annual report by the Department**

**677.**<sup>F11</sup> .....

**Annotations:**

**F6** 1990 NI 10

**F11** Art. 677 repealed (6.4.2007) by Companies Act 2006 (c. 46), ss. 1284(2), 1295, 1300(2), **Sch. 16**; S.I. 2006/3428, arts. 4(2)(a), **7(c)**, Sch. 4 Pt. 2 (subject to art. 5, Sch. 1 and with arts. 6, 8, Sch. 5)

### **Punishment of offences**

**678**<sup>F12</sup>.—(1) Schedule 23 has effect with respect to the way in which offences under this Order are punishable on conviction.

(2) In relation to an offence under a provision of this Order specified in the first column of the Schedule (the general nature of the offence being described in the second column), the third column shows whether the offence is punishable on conviction on indictment, or on summary conviction, or either in the one way or the other.

(3) The fourth column of the Schedule shows, in relation to an offence, the maximum punishment by way of fine or imprisonment under this Order which may be imposed on a person convicted of the offence in the way specified in relation to it in the third column (that is to say, on indictment or summarily), a reference to a period of years or months being to a term of imprisonment of that duration.

(4) The fifth column shows (in relation to an offence for which there is an entry in that column) that a person convicted of the offence after continued contravention is liable to a daily default fine; that is to say, he is liable on a second or subsequent summary conviction of the offence to the fine specified in that column for each day on which the contravention is continued (instead of the penalty specified for the offence in the fourth column of the Schedule).

(5) For the purpose of any provision of the Companies Orders which provides that an officer of a company<sup>F13</sup> or other body] who is in default is liable to a fine or penalty, the expression “officer who is in default” means any officer of the company<sup>F13</sup> or other body] who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in that provision.

**Annotations:**

**F6** 1990 NI 10

**F12** mod. by SR 2004/307

**F13** 1990 NI 10

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

**C1** Art. 678(4) applied (temp.) (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), reg. 4, **Sch. 1 para. 2**

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**C2** Art. 678(5) applied (temp.) (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), reg. 4, **Sch. 1 para. 2**

### Summary proceedings

**679**<sup>F14</sup>.—(1) Summary proceedings for any offence under the Companies Orders may (without prejudice to any jurisdiction exercisable apart from this paragraph) be taken against a body corporate at any place at which the body has a place of business, and against any other person at any place at which he is for the time being.

(2) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981, a magistrates' court shall have jurisdiction to hear and determine a complaint charging the commission of a summary offence under the Companies Orders provided that the complaint is made within 3 years from the time when the offence was committed and within 12 months from the date on which evidence, sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Department (as the case may be) to justify the proceedings, comes to his or the Department's knowledge.

(3) For the purposes of this Article, a certificate of the Director of Public Prosecutions for Northern Ireland or the Department (as the case may be) as to the date on which such evidence as is referred to in paragraph (2) came to his or its knowledge is conclusive evidence.

#### Annotations:

**F6** 1990 NI 10

**F14** mod. by SR 2004/307

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

**C3** Art. 679 applied (temp.) (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), reg. 4, **Sch. 1 para. 2**

### Prosecution by public authorities

**680.**<sup>F15</sup> .....

#### Annotations:

**F6** 1990 NI 10

**F15** Arts. 680-680B repealed (6.4.2008) by Companies Act 2006 (c. 46), ss. 1284(2), 1295, 1300(2), **Sch. 16**; S.I. 2007/3495, **art. 8(a)**, Sch. 2 Pt. 2 (with arts. 7, 12, Sch. 4 para. 44)

### [<sup>F6</sup>Offences by bodies corporate

[<sup>F6</sup>**680A.**<sup>F16</sup> .....

#### Annotations:

**F6** 1990 NI 10

**F16** Arts. 680-680B repealed (6.4.2008) by Companies Act 2006 (c. 46), ss. 1284(2), 1295, 1300(2), **Sch. 16**; S.I. 2007/3495, **art. 8(a)**, Sch. 2 Pt. 2 (with arts. 7, 12, Sch. 4 para. 44)

### [<sup>F6</sup>Criminal proceedings against unincorporated bodies

[<sup>F6</sup>**680B**<sup>F17</sup> <sup>F18</sup> .....

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**Annotations:**

**F6** 1990 NI 10

**F17** mod. by SR 2004/307

**F18** Arts. 680-680B repealed (6.4.2008) by Companies Act 2006 (c. 46), ss. 1284(2), 1295, 1300(2), **Sch. 16**; S.I. 2007/3495, **art. 8(a)**, Sch. 2 Pt. 2 (with arts. 7, 12, Sch. 4 para. 44)

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

**C4** Art. 680B applied (temp.) (15.12.2007) by Companies (Cross-Border Mergers) Regulations 2007 (S.I. 2007/2974), reg. 4, **Sch. 1 para. 2**

**Regulations**

**681** <sup>F19</sup>.—(1) Subject to paragraph (4), the Department may make regulations for prescribing anything which is authorised or required by the Companies Orders to be prescribed.

(2) Regulations under those Orders may contain such consequential, incidental or supplementary provisions as the Department thinks appropriate.

(3) Save as otherwise expressly provided by those Orders, all regulations under them shall be subject to negative resolution.

*Para. (4) rep. by 1989 NI 19]]]*

**Annotations:**

**F6** 1990 NI 10

**F19** mod. by SR 2004/307

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### **Changes and effects yet to be applied to the whole Order associated Parts and Chapters:**

- Order applied (with modifications) by S.I. 2011/245 Sch. 6 Pt. 1
- Order modified by S.I. 2009/317 art. 3 Sch.
- Order savings for effects of 2006 c. 46 Sch. 16 by S.I. 2009/1801 Sch. 8
- Order savings for effects of 2006 c. 46 Sch. 16 by S.I. 2009/1804 Sch. 1 2

### **Whole provisions yet to be inserted into this Order (including any effects on those provisions):**

- s. 172D(3) words substituted by S.I. 2007/1093 Sch. 3 para. 2
- Sch. 4 para. 89 savings for effects of 2006 c. 46 Sch. 16 by S.I. 2008/948 art. 9(1)
- Sch. 4 para. 88 savings for effects of 2006 c. 46 Sch. 16 by S.I. 2008/948 art. 9(1)(2)
- Sch. 4 para. 87 savings for effects of 2006 c. 46 Sch. 16 by S.I. 2008/948 art. 9(2)
- Sch. 6 para. 15(a)(b) words repealed by S.I. 2008/948 Sch. 1 para. 147(1)(a) Sch. 2
- Sch. 6 para. 16(a)(b) words repealed by S.I. 2008/948 Sch. 1 para. 147(1)(b) Sch. 2
- Sch. 15D para. 16(j)(k) inserted by S.I. 2008/1277 Sch. 2 para. 79(b)
- Sch. 15D para. 16(h) revoked by S.I. 2008/1277 Sch. 2 para. 79(a) Sch. 4 Pt. 2
- Sch. 15D para. 36 words substituted by S.I. 2007/1093 Sch. 4 para. 54(a)
- Sch. 15D para. 36 words substituted by S.I. 2007/1093 Sch. 4 para. 54(b)
- Sch. 15D para. 1 words substituted by S.I. 2008/948 Sch. 1 para. 149
- art. 21(2)(ba)(bb) substituted for art. 21(2)(b) by S.I. 2008/948 Sch. 1 para. 113
- art. 250A(2A) inserted by S.R. 2008/133 reg. 2(2)
- art. 372(1)(j) added by S.R. 2008/379 reg. 2(2)
- art. 372A heading text amended by S.R. 2008/379 reg. 3(a)
- art. 372B-372D inserted by S.R. 2008/379 reg. 4
- art. 446D and cross-heading inserted by S.I. 2008/948 Sch. 1 para. 141

### **Commencement Orders yet to be applied to the The Companies (Northern Ireland) Order 1986**

#### **Commencement Orders bringing legislation that affects this Order into force:**

- S.I. 2007/1093 art. 2 5 Sch. 2 commences (2006 c. 46)
- S.I. 2007/2194 art. 2-5 8 Sch. 2 commences (2006 c. 46)
- S.I. 2007/2607 art. 2 commences (2006 c. 46)
- S.I. 2007/3495 art. 3-5 8 Sch. 2 3 commences (2006 c. 46)
- S.I. 2008/674 art. 2 commences (2006 c. 46)
- S.I. 2008/1886 art. 2 commences (2006 c. 46)
- S.I. 2008/2860 art. 3 4 Sch. 1 commences (2006 c. 46)
- S.I. 2009/296 art. 2 3 Sch. commences (2009 c. 1)
- S.I. 2009/1604 art. 2 commences (2005 c. 4)
- S.R. 2007/95 art. 2 commences (S.I. 1986/1032 (N.I.))
- S.R. 2007/194 art. 2 Sch. commences (S.I. 2006/3336 (N.I.))
- S.R. 2013/145 art. 2 Sch. commences (2008 c. 12 (N.I.))