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## STATUTORY INSTRUMENTS

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# 1987 No. 460

## The Audit (Northern Ireland) Order 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<sup>F1</sup> (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.

**Changes to legislation:** The Audit (Northern Ireland) Order 1987 is up to date with all changes known to be in force on or before 19 February 2024. 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

## Salary and pension of Comptroller and Auditor General

**4**<sup>F2</sup>.—(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<sup>F3</sup> 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*

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| <b>F2</b> | mod. (while 2000 c. 1 s. 1 is in force) by 2000 c. 1 |
| <b>F3</b> | 1993 c. 8  |

## [<sup>F4</sup>Pension of Comptroller and Auditor General: supplementary

**4A**<sup>F5</sup>.—(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 qualifying 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 children'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 paragraph 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.

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(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) [F6section 1 of the Pension Schemes Act 1993], or
- (b) [F6section 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<sup>F7</sup> 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<sup>F8</sup> the committee established under section 66 of the Northern Ireland Act 1998] and the Comptroller and Auditor General shall be laid by<sup>F8</sup> that committee] before the Assembly.

(3) The Department shall appoint a person to be responsible as accounting officer for preparing<sup>F7</sup> 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<sup>F9</sup> any functions] in respect of any audit or examination [<sup>F10</sup>or in respect of data matching] shall be charged on and issued out of the Consolidated Fund.

*Para. (6) rep. by 1998 c. 47*

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

(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—

[<sup>F11</sup>(a) any Northern Ireland department which is required to prepare resource accounts under section 9 of the Government Resources and Accounts Act (Northern Ireland) 2001;]

*Sub-para. (b) rep. by 2003 NI 5*

[<sup>F11</sup>(bb) any body—

(i) whose accounts are open to the inspection of the Comptroller and Auditor General by virtue of section 22 of the Government Resources and Accounts Act (Northern Ireland) 2001; and

(ii) which is a public sector body within the meaning of paragraph (7);]

(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 [<sup>F11</sup>other] 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.

[<sup>F11</sup>(7) For the purposes of this Part an authority or body is a public sector authority or body if—

- (a) in the case of a company, its directors (or a majority of them) are appointed by a Northern Ireland department or a Minister of such a department;
- (b) in the case of any other body, its members (or a majority of them) are so appointed; and
- (c) in the case of any authority, the authority is so appointed.]

**F11** 2001 c. 6 (NI)

### 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.

[<sup>F12</sup>(4) This Article applies to any public sector authority or body within the meaning of Article 8(7).]

(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.

**F12** 2001 c. 6 (NI)

*Art. 10 rep. by 2003 NI 5*

### 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.

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[<sup>F13</sup>(2) While section 1 of the Northern Ireland Act 2000 is in force, paragraph (1) shall have effect as if for the words “the Assembly” there were substituted the words “ the House of Commons ”.]  
*Para.(3) rep. by 1998 c. 47*

**F13** [2004 NI 22](#)

## PART IV

### MISCELLANEOUS AND SUPPLEMENTARY

*Arts. 12#14 rep. by 2001 c. 6 (NI)*

#### **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.

*Para. (2)—Repeals*



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**Changes and effects yet to be applied to :**

- art.2(2) (defn. of the interim period) rev. (prosp.) by [1998 c. 47 s.100\(2\)Sch.15](#)
- art.4(1) restr. (prosp.) by [1998 c. 47 s.65\(6\)](#)
- art.4(2)(6)(7) rev. (prosp.) by [1998 c. 47 s.100\(2\)Sch.15](#)
- art.6(2) am. (prosp.) by [1998 c. 47 s.99Sch.13 para.7](#)
- arts.6(6)11(2)(3)Sch.1 para.4(3)Sch.2 para.4(3) rev. (prosp.) by [1998 c. 47 s.100\(2\)Sch.15](#)