
STATUTORY INSTRUMENTS

1990 No. 593

The Companies (Northern Ireland) Order 1990

PART III

ELIGIBILITY FOR APPOINTMENT AS COMPANY AUDITOR

Offences

False and misleading statements

43.—(1) A person commits an offence if—

- (a) for the purposes of or in connection with any application under this Part, or
- (b) in purported compliance with any requirement imposed on him by or under this Part,

he furnishes information which he knows to be false or misleading in a material particular or recklessly furnishes information which is false or misleading in a material particular.

(2) It is an offence for a person whose name does not appear on the register of auditors kept under regulations under Article 37 to describe himself as a registered auditor or so to hold himself out as to indicate, or be reasonably understood to indicate, that he is a registered auditor.

(3) It is an offence for a body which is not a recognised supervisory or qualifying body to describe itself as so recognised or so to describe itself or hold itself out as to indicate, or be reasonably understood to indicate, that it is so recognised.

(4) A person guilty of an offence under paragraph (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine or both;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or both.

(5) A person guilty of an offence under paragraph (2) or (3) is liable on summary conviction to imprisonment for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale or both.

Where a contravention of paragraph (2) or (3) involves a public display of the offending description, the maximum fine that may be imposed is (in place of that mentioned above) an amount equal to level 5 on the standard scale multiplied by the number of days for which the display has continued.

(6) It is a defence for a person charged with an offence under paragraph (2) or (3) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Offences by bodies corporate, partnerships and unincorporated associations

44.—(1) For the purposes of this Part, section 20(2) of the Interpretation Act (Northern Ireland) 1954(1) applies with the omission of the words “the liability of whose members is limited” and where the affairs of a body corporate are managed by its members, applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(2) Where an offence under this Part committed by a partnership is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a partner, he as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

(3) Where an offence under this Part committed by an unincorporated association (other than a partnership) is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any officer of the association or any member of its governing body, he as well as the association is guilty of the offence and liable to be proceeded against and punished accordingly.

Time limits for prosecution of offences

45.—(1) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981(2), a magistrates' court shall have jurisdiction to hear and determine a complaint charging the commission of a summary offence under this Part 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.

(2) 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 above came to his or its knowledge is conclusive evidence.

Jurisdiction and procedure in respect of offences

46.—(1) Summary proceedings for an offence under this Part may, without prejudice to any jurisdiction exercisable apart from this Article, be taken against a body corporate or unincorporated association at any place at which it has a place of business and against an individual at any place where he is for the time being.

(2) Proceedings for an offence alleged to have been committed under this Part by an unincorporated association shall be brought in the name of the association (and not in that of any of its members), and for the purposes of any such proceedings any rules of court relating to the service of documents apply as in relation to a body corporate.

(3) Section 18 of the Criminal Justice Act (Northern Ireland) 1945(3) and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981(4) (procedure on charge of offence against a corporation) apply in a case in which an unincorporated association is charged with an offence under this Part as they apply in the case of a corporation.

(4) A fine imposed on an unincorporated association on its conviction of such an offence shall be paid out of the funds of the association.

(1) 1954 c. 33 (N.I.)

(2) 1981 NI 26

(3) 1945 c. 15 (N.I.)

(4) 1981 NI 26

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
