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## SCHEDULES

### SCHEDULE 1

#### ADMINISTRATIVE PROVISIONS RELATING TO TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

#### PART I

#### ANNUAL RETURNS, AND QUALIFICATIONS, APPOINTMENT AND REMOVAL, AND FUNCTIONS, OF AUDITORS

##### *Annual returns*

1.—(1) Subject to paragraph 5, the annual return of a trade union or an employers' association required by Article 11(2) shall be sent to the Certification Officer before 1st June and shall relate to the last preceding calendar year.

(2) The annual return shall be in such form and be signed by such persons as the Certification Officer may require.

2. Every annual return shall contain—

- (a) revenue accounts indicating the income and expenditure of the trade union or employers' association for the period to which the return relates;
- (b) a balance sheet as at the end of that period;
- (c) such other accounts (if any) as the Certification Officer may require; and
- (d) a copy of the rules of the trade union or employers' association as in force at the end of that period;

and shall have attached to it a note of all changes in the officers of the union or association and of any change in the address of the head or main office of the union or association during the period to which the return relates.

3. Every revenue account, every balance sheet and every other account contained in a return in accordance with paragraph 2 shall give a true and fair view of the matters to which it relates.

4. Every return, in addition to containing the accounts mentioned in paragraph 2 shall contain a copy of the report made by the auditor or auditors of the trade union or employers' association on those accounts under paragraph 18 and such other documents relating to those accounts and such further particulars as the Certification Officer may require, subject in the case of the accounts contained in the return to such modifications (if any) as may be necessary to secure compliance with paragraph 3.

[<sup>F1</sup>4A.—(1) Every annual return of a trade union shall contain—

- (a) details of the salary paid to and other benefits provided to or in respect of—
  - (i) each member of the executive,

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- (ii) the president, and
- (iii) the general secretary,

by the trade union during the period to which the return relates; and

- (b) in the case of a trade union required to maintain a register by Article 3 of the Trade Union and Labour Relations (Northern Ireland) Order 1995, a statement of the number of names on the register as at the end of the period to which the return relates and the number of those names which were not accompanied by an address which is a member's address for the purposes of that Article.

(2) For the purposes of this paragraph “member of the executive” includes any person who, under the rules or practice of the union, may attend and speak at some or all of the meetings of the executive, otherwise than for the purpose of providing the committee with factual information or with technical or professional advice with respect to matters taken into account by the executive in carrying out its functions.]

**F1** 1995 NI 12

5. The Certification Officer, if in any particular case he considers it appropriate to do so,—
- (a) may direct that the period for which a return is to be sent to him under Article 11(2) shall be a period other than the calendar year last preceding the date on which the return is sent;
  - (b) whether a direction under sub-paragraph (a) is given or not, may direct that the date before which any such return is to be sent to him shall be such date (whether before or after 1st June) as may be specified in the direction.

#### *Qualifications of auditors*

[<sup>F26</sup>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.]

**F2** SR 1993/67

9.—(1) Two or more persons who are not qualified under paragraph 6 may act as auditors of a trade union or employers' association in respect of any accounting period of that union or association if—

- (a) its receipts and payments in respect of its last preceding accounting period did not in the aggregate exceed £5,000;
- (b) the number of its members at the end of its last preceding accounting period did not exceed 500; and
- (c) the value of its assets at the end of its last preceding accounting period did not in the aggregate exceed £5,000.

(2) Where by virtue of sub-paragraph (1) persons who are not qualified under paragraph 6 act as auditors in respect of any accounting period of a trade union or employers' association, the Certification Officer may at any time (whether during that period or after it comes to an end) direct the trade union or employers' association to appoint a person who is so qualified to audit its accounts for that period.

(3) Regulations may—

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- (a) substitute for any sum or number for the time being specified in sub-paragraph (1) such sum or number as may be specified in the regulations; and
- (b) prescribe what receipts and payments shall be taken into account for the purposes of that sub-paragraph.

**10.—**(1) None of the following persons shall act as auditor of a trade union or employers' association, that is to say—

- (a) an officer or employee of the trade union or employers' association or of any of its branches or sections;
- (b) a person who is a partner of, or in the employment of, or who employs, such an officer or employee;

*Head (c) rep. by SR 1993/67*

*Para. (2) rep. by 1995 NI 12*

#### *Appointment and removal of auditors*

**11.** The rules of every trade union and every employers' association shall contain provision for the appointment and removal of auditors.

**12.** Notwithstanding anything in the rules of a trade union or employers' association, its auditor or auditors shall not be removed from office except by resolution passed at a general meeting of its members, or of delegates of its members.

**13.—**(1) Notwithstanding anything in the rules of a trade union or employers' association, a qualified auditor appointed to audit its accounts for the preceding year of account shall (subject to sub-paragraph (2)) be re-appointed as auditor for the current year of account unless—

- (a) a resolution has been passed at a general meeting of the trade union or employers' association appointing somebody instead of him or providing expressly that he shall not be re-appointed; or
- (b) he has given to the trade union or employers' association notice in writing of his unwillingness to be re-appointed; or
- (c) he is ineligible for appointment as its auditor or one of its auditors for the current year of account; or
- (d) he has ceased to act as its auditor or one of its auditors by reason of incapacity.

(2) Where notice is given of an intended resolution to appoint some person or persons in place of a retiring auditor and the resolution cannot be proceeded with at the meeting because of the death or incapacity of that person or persons, or because he or they are ineligible for appointment as auditor or auditors for the current year of account, the retiring auditor shall not be automatically re-appointed by virtue of this paragraph.

(3) For the purposes of this paragraph a person is ineligible for appointment as auditor of a trade union or employers' association for the current year of account if, but only if,—

- (a) he would be precluded by paragraph 10 from acting as its auditor for that year; or
- (b) he is not a qualified auditor at the time when the question of his appointment falls to be considered.

(4) In this paragraph “qualified auditor”, in relation to a trade union or employers' association, means a person qualified to be its auditor or one of its auditors in accordance with paragraphs<sup>F3</sup> 6 and 9], “the current year of account”, in relation to the appointment of a person as auditor, means the year of account in which the question of that appointment arises, and “the preceding year of account” means the year of account immediately preceding the current year of account.

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**F3** SR 1993/67

**14.** Regulations may make provision as to the procedure to be followed when it is intended to move a resolution—

- (a) appointing another auditor or other auditors in place of a retiring auditor or retiring auditors of a trade union or an employers' association; or
- (b) providing expressly that a retiring auditor or auditors of a trade union or an employers' association shall not be re-appointed;

and as to the rights of auditors and members of a trade union or an employers' association in relation to such a motion.

**15.—(1)** Where any regulations made under paragraph 14 require copies of any representations made by a retiring auditor to be sent out, or require any such representations to be read out at a meeting, the High Court, on the application of the trade union or employers' association or of any other person, may dispense with that requirement if satisfied that the rights conferred on the retiring auditor by the regulations are being abused to secure needless publicity for defamatory matter.

(2) On any such application the High Court may order the costs or expenses of the trade union or employers' association to be paid, in whole or in part, by the retiring auditor, whether he is a party to the application or not.

*Auditor's right of access to books and information and right to be heard at meetings*

**16.** Every auditor of a trade union or an employers' association—

- (a) shall have a right of access at all times to its accounting records and to all other documents relating to its affairs; and
- (b) shall be entitled to require from its officers, or the officers of any of its branches or sections, such information and explanations as he thinks necessary for the performance of his duties as auditor.

**17.—<sup>[F4]</sup>(1)** Every auditor of a trade union or an employers' association shall be entitled—

- (a) to attend any general meetings of its members, or of delegates of its members, and to receive all notices of and other communications relating to any general meeting which any such member or delegate is entitled to receive; and
- (b) to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as auditor.

<sup>[F4]</sup>(2) In the case of an auditor which is a body corporate or partnership, its right to attend or be heard at a meeting is exercisable by an individual authorised by it to act as its representative at the meeting.]

**F4** 2004 NI 19

*Auditor's reports*

**18.** The auditor or auditors of a trade union or an employers' association shall make a report to it on the accounts of the trade union or employers' association audited by him or them and contained in its annual return.

<sup>[F5]</sup>**18A.—(1)** The report shall state the names of, and be signed by, the auditor or auditors.

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(2) Any reference in this Schedule to signature by an auditor is, where the office of auditor is held by a body corporate or partnership, to signature in the name of the body corporate or partnership by an individual authorised to sign on its behalf.]

**F5** 2004 NI 19

**19.** The report shall state whether, in the opinion of the auditor or auditors, those accounts give a true and fair view of the matters to which they relate.

**20.** It shall be the duty of the auditor or auditors, in preparing a report under paragraph 18, to carry out such investigations as will enable him or them to form an opinion as to the following matters, that is to say—

- (a) whether the trade union or employers' association has kept proper accounting records in accordance with the requirements of Article 10;
- (b) whether it has maintained a satisfactory system of control over its transactions in accordance with the requirements of that Article; and
- (c) whether the accounts to which the report refers are in agreement with the accounting records;

and if in the opinion of the auditor or auditors the trade union or employers' association has failed to comply with Article 10(2)(a) or (b) or if the accounts to which the report relates are not in agreement with the accounting records, the auditor or auditors shall state that fact in the report.

**21.** If an auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of an audit, he shall state that fact in his report.

**22.** In this Part “accounting period”, in relation to a trade union or an employers' association, means any period in relation to which it is required under Article 11(2) to send a return to the Certification Officer.

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