
STATUTORY INSTRUMENTS

2005 No. 1967

**The Companies (Audit, Investigations and
Community Enterprise) (Northern Ireland) Order 2005**

PART II

AUDITORS, ACCOUNTS, DIRECTORS' LIABILITIES AND INVESTIGATIONS

CHAPTER I

AUDITORS

Delegation of functions of Department in relation to auditors

Delegation of functions by Department to new or existing body

5.—(1) Article 48 of the 1990 Order (delegation of functions of Department) is amended as follows.

(2) For paragraph (1) substitute—

“(1) The Department may make an order under this Article (a “delegation order”) for the purpose of enabling functions of the Department under this Part to be exercised by a body designated by the order.

(1A) The body so designated may be either—

- (a) a body corporate which is established by the order, or
- (b) subject to Article 48A, a body (whether a body corporate or an unincorporated association) which is already in existence (“an existing body”).”

(3) In paragraph (2) (effect of delegation order on body established by it), for “established” substitute “designated”.

(4) For paragraph (6) substitute—

“(6) Where a delegation order is made, the provisions of Schedule 13 have effect with respect to—

- (a) the status of the body designated by the order in exercising functions of the Department under this Part;
- (b) the constitution and proceedings of the body where it is established by the order;
- (c) the exercise by the body of certain functions transferred to it; and
- (d) other supplementary matters.”

Circumstances in which the Department may delegate functions to existing body

6. After Article 48 of the 1990 Order (which is amended by Article 5) insert—

“Circumstances in which the Department may delegate functions to existing body

48A.—(1) The Department’s power to make a delegation order under Article 48 which designates an existing body is exercisable in accordance with this Article.

- (2) The Department may make such an order if it appears to the Department—
 - (a) that the body is willing and able to exercise the functions that would be transferred by the order; and
 - (b) that the body has arrangements in place relating to the exercise of those functions which are such as to be likely to ensure that the conditions in paragraph (3) are met.
- (3) The conditions are—
 - (a) that the functions in question will be exercised effectively; and
 - (b) where the delegation order is to contain any requirements or other provisions specified under paragraph (4), that those functions will be exercised in accordance with any such requirements or provisions.
- (4) The delegation order may contain such requirements or other provisions relating to the exercise of the functions by the designated body as appear to the Department to be appropriate.
- (5) An existing body—
 - (a) may be designated by a delegation order under Article 48, and
 - (b) may accordingly exercise functions of the Department in pursuance of the order, despite any involvement of the body in the exercise of any functions under arrangements within any of paragraphs 17, 18, 19(1) or 20(1) of Schedule 11.”.

Supplementary provisions about delegation orders

7.—(1) Schedule 13 to the 1990 Order (supplementary provisions with respect to delegation orders) is amended as follows.

- (2) For paragraph 1 substitute—

“Operation of this Schedule

- 1.**—(1) This Schedule has effect in relation to a body designated by an order under Article 48 as follows—
 - (a) paragraphs 2 to 12 have effect in relation to the body where it is established by the order;
 - (b) paragraphs 2 and 6 to 11 have effect in relation to the body where it is an existing body (see Article 48(1A)(b)); and
 - (c) paragraph 13 has effect in relation to the body where it is an existing body that is an unincorporated association.
- (2) In their operation in accordance with sub-paragraph (1)(b), paragraphs 2 and 6 apply only in relation to—
 - (a) things done by or in relation to the body in or in connection with the exercise of functions transferred to it by the order, and
 - (b) functions of the body which are functions so transferred.
- (3) Any power conferred by this Schedule to make provision by order is a power to make provision by an order under Article 48.”.

- (3) In paragraph 10 (report and accounts)—
- (a) after sub-paragraph (2) insert—
- “(2A) The following provisions of this paragraph apply as follows—
- (a) sub-paragraphs (3) and (4) apply only where the body is established by the order, and
- (b) sub-paragraphs (5) and (6) apply only where the body is an existing body.”;
- and
- (b) after sub-paragraph (4) insert—
- “(5) Unless the body is a company to which Article 234 of the 1986 Order (duty to prepare individual company accounts) applies—
- (a) the Department may, with the consent of the Department of Finance and Personnel, give directions to the body with respect to its accounts and the audit of its accounts, and
- (b) it is the duty of the body to comply with the directions.
- (6) Whether or not the body is a company to which Article 234 of the 1986 Order applies—
- (a) the Department may give directions to the body providing that any provisions of that Order specified in the directions are to apply to the body, with or without any modifications so specified, and
- (b) it is the duty of the body to comply with the directions.”.
- (4) In paragraph 11 (other supplementary provisions), for “established” (in both places) substitute “designated”.
- (5) After paragraph 12 insert—
- “**13.**—(1) This paragraph applies where the body is an unincorporated association.
- (2) Any relevant proceedings may be brought by or against the body in the name of any body corporate whose constitution provides for the establishment of the body.
- (3) In sub-paragraph (2) “relevant proceedings” means proceedings brought in or in connection with the exercise of any transferred function.
- (4) In relation to proceedings brought as mentioned in sub-paragraph (2), any reference in paragraph 11(3)(e) or (4)(c) to the body replacing or being replaced by the Department in any legal proceedings is to be read with the appropriate modifications.”.