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STATUTORY INSTRUMENTS

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**1991 No. 194**

**The Health and Personal Social  
Services(Northern Ireland) Order 1991**

Financial provisions

**Accounts and audit**

**22.** For Articles 90 to 92 of the principal Order there shall be substituted the following Articles—

**“Accounts of certain bodies**

**90.**—(1) Each body to which this paragraph applies shall keep, in such form as the Department may direct, accounts of all money received and of all money paid out by it.

(2) In respect of each financial year—

- (a) each body to which this paragraph applies shall prepare and submit to the Department annual accounts in such form as the Department may direct and those accounts shall be audited by auditors appointed by the Department;
- (b) the Department shall prepare in such form as the Department of Finance and Personnel may approve summarised accounts of the bodies to which this paragraph applies and shall submit them to the Comptroller and Auditor General, who shall examine and certify them;
- (c) the Department shall lay before the Assembly copies of the summarised accounts certified by the Comptroller and Auditor General together with his report (if any) on them.

(3) The Comptroller and Auditor General, in the discharge of his duty under paragraph (2)(b), may examine any accounts and any records relating thereto and any report of the auditor thereon.

(4) Paragraphs (1) and (2) apply to—

- (a) Health and Social Services Boards;
- (b) the Agency;
- (c) special agencies; and
- (d) HSS trusts.

(5) So far as relates to allotted sums paid to the members of a recognised fund-holding practice—

- (a) accounts shall be kept in such form as the Department may direct and shall, subject to paragraph (6), be audited by auditors appointed by the Department;
- (b) the Comptroller and Auditor General may examine the accounts and the records relating to them and any report of the auditor on them;
- (c) in respect of each financial year, annual accounts in such form as the Department may direct shall be prepared and submitted to the relevant Health and Social Services Board; and

(d) in respect of each financial year, each Health and Social Services Board shall prepare, in such form as the Department may direct, and include in its own accounts, a summarised version of the accounts submitted to the Board under subparagraph (c).

(6) In such circumstances and to such extent as regulations so provide, the requirement in paragraph (5)(a) to have accounts audited shall not apply to the accounts for any year of a recognised fund-holding practice if those accounts are submitted to a Health and Social Services Board and summarised in the Board's accounts.

(7) The Department, with the approval of the Department of Finance and Personnel, may make such regulations for the purposes of this Article and Article 91 as it considers necessary and such regulations may prescribe the times at which accounts shall be submitted—

- (a) under paragraph (2)(a) or Article 91(1)(a) to the Department;
- (b) under paragraph (2)(b) to the Comptroller and Auditor General; and
- (c) under paragraph (5)(c) to the relevant Health and Social Services Board.

(8) In this Article—

“Comptroller and Auditor General” means the Comptroller and Auditor General for Northern Ireland;

“allotted sum”, “recognised fund-holding practice” and “relevant Health and Social Services Board” have the same meanings as in Article 18 of the 1991 Order.

#### **Accounts of endowments and other property held on trust**

**91.**—(1) In respect of each financial year—

- (a) each body to which this Article applies shall prepare and submit to the Department annual accounts in such form as the Department may direct of endowments and other property held on trust by it and those accounts shall be audited by auditors appointed by the Department;
- (b) the Department shall prepare summarised accounts of endowments and other property held on trust by bodies to which this Article applies; and
- (c) auditors appointed by the Department shall examine and certify the summarised accounts, and the Department shall lay copies of them before the Assembly.

(2) This Article applies to—

- (a) Health and Social Services Boards;
- (b) special agencies;
- (c) HSS trusts; and
- (d) the trustees for an HSS trust appointed in pursuance of Article 16 of the 1991 Order.

#### **Power of Department to give directions as to audit of accounts**

**92.**—(1) The Department may give directions generally with respect to the audit of accounts under Article 90(2)(a) or (5)(a) or Article 91(1)(a) and, in particular, may confer on the auditor of any accounts—

- (a) such rights of access to, and production of, books, accounts, vouchers and other documents as may be specified in the directions; and
- (b) such right to require—

- (i) in the case of an audit under Article 90(2)(a), from any member or officer or former member or officer of a body to which Article 90(2) applies, such information relating to the affairs of the body as the Department may think necessary for the proper performance of the duty of the auditor under Article 90(2);
  - (ii) in the case of an audit under Article 90(5)(a), from any member or employee or former member or employee of any fund-holding practice, such information relating to the affairs of that practice as the Department may think necessary for the proper performance of the duty of the auditor under Article 90(5);
  - (iii) in the case of an audit under Article 91(1)(a) of the accounts of the trustees for an HSS trust, from any trustee or former trustee for that HSS trust such information relating to the affairs of those trustees as the Department may think necessary for the proper performance of the duty of the auditor under Article 91(1);
  - (iv) in the case of an audit under Article 91(1)(a) of the accounts of any other body, from any member or officer or former member or officer of that body, such information relating to the affairs of that body as the Department may think necessary for the proper performance of the duty of the auditor under Article 91(1).
- (2) In the case of a recognised fund-holding practice the reference in paragraph (1)(a) to books, accounts, vouchers and other documents is a reference to all books, accounts, vouchers and other documents relating to the practice, whether or not relating to the allotted sum.
- (3) In paragraph (2) “allotted sum” and “recognised fund-holding practice” have the same meanings as in Article 18 of the 1991 Order.”.

**Power of Boards, special agencies and HSS trusts to raise funds by appeals, collections, etc.**

23.—(1) The Department may by regulations confer power on Health and Social Services Boards, special agencies and HSS trusts (in this Article referred to as “relevant bodies”) to engage in activities to which this Article applies, but before making any regulations under this Article the Department shall consult the relevant bodies and such other bodies as the Department thinks fit.

(2) This Article applies to activities intended to stimulate the giving (whether on trust or otherwise) of money or other property to assist the relevant bodies in providing or improving any services or any facilities or accommodation which is or are or is or are to be provided as part of the health and personal social services or to assist the relevant bodies in connection with their functions with respect to research, including, subject to paragraph (3),—

- (a) public appeals or collections and competitions, entertainments, bazaars, sales of produce or other goods and other similar activities; and
- (b) activities involving the use of land, premises or other property held by or for the benefit of the relevant bodies, subject however to any restriction on the purposes for which trust property may be used.

(3) Regulations under this Article may provide that this Article shall not apply to activities of a prescribed description.

(4) Subject to paragraphs (5) to (8), the relevant body at whose instance property is given in pursuance of this Article shall, after defraying out of it any expenses incurred in obtaining it, hold, administer and apply the property on trust for the purpose for which it was given.

(5) Where property is given in pursuance of this Article on trust for any purposes of an HSS trust for which trustees have been appointed under Article 16(1), then, if those trustees and the HSS trust agree, the property may be held, administered and applied by those trustees instead of by the HSS trust; and references in paragraphs (6) to (8) to a relevant body accordingly include references to trustees for an HSS trust.

(6) Where property held by a relevant body under this Article is more than sufficient to enable the purpose for which it was given to be fulfilled, the excess shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property comprising the excess was given, for such purposes connected with any of the functions of the relevant body as the relevant body thinks fit.

(7) Where property held by a relevant body under this Article is insufficient to enable the purpose for which it was given to be fulfilled then—

- (a) the relevant body may apply so much of the capital or income at its disposal as is needed to enable the purpose to be fulfilled subject, however, in the case of trust property, to any restrictions on the purposes for which the trust property may be applied, and in the case of money paid or payable by the Department under Article 87(1) of the principal Order, to any directions it may give; but
- (b) where the capital or income applicable under sub-paragraph (a) is insufficient or is not applied to enable the purpose to be fulfilled, the property so held by the relevant body shall be applicable, in default of any provision for its application made by the trust or other instrument under or in accordance with which the property was given, for such purposes connected with any of the functions of the relevant body as the relevant body thinks fit.

(8) Where under paragraph (6) or (7) property becomes applicable for purposes other than that for which it was given, the relevant body shall have regard to the desirability of applying the property for a purpose similar to that for which it was given.

#### **Schemes for meeting losses and liabilities, etc., of certain health and social services bodies**

**24.**—(1) The Department may by regulations made with the consent of the Department of Finance and Personnel establish a scheme whereby any of the bodies mentioned in paragraph (2) may make provision to meet—

- (a) expenses arising from any loss of or damage to their property; and
- (b) liabilities to third parties for loss, damage or injury arising out of the carrying out of the functions of the bodies concerned.

(2) The bodies referred to in paragraph (1) are—

- (a) Health and Social Services Boards;
- (b) the Agency;
- (c) special agencies; and
- (d) HSS trusts; but a scheme under this Article may limit the class or description of bodies which are eligible to participate in it.

(3) Without prejudice to the generality of the power conferred by paragraph (1), a scheme under this Article may—

- (a) provide for the scheme to be administered by the Department or by a body specified in the scheme (being a body mentioned in paragraph (2));
- (b) require any body which participates in the scheme to make payments in accordance with the scheme; and
- (c) provide for the making of payments for the purposes of the scheme by the Department.

- (4) Without prejudice to any other power of direction conferred on the Department,—
- (a) if the Department so directs, a body which is eligible to participate in a scheme shall do so; and
  - (b) where a scheme provides for it to be administered by the Department, a body mentioned in paragraph (2) shall carry out such functions in connection with the administration of the scheme by the Department as the Department may direct.
- (5) Neither the Department nor any body administering a scheme under this Article shall, by virtue of their activities under the scheme, be regarded as carrying on insurance business for the purposes of the Insurance Companies Act 1982(1).