

*Draft Order in Council laid before Parliament under paragraph 2(1)(a) of the Schedule to the
Northern Ireland Act 2000, for approval by resolution of each House of Parliament*

DRAFT STATUTORY INSTRUMENTS

2005 No.

NORTHERN IRELAND

The Local Government (Northern Ireland) Order 2005

Made - - - - 2005

Coming into operation in accordance with Article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART I

INTRODUCTORY

Title and commencement

1.—(1) This Order may be cited as the Local Government (Northern Ireland) Order 2005.

(2) Parts II and III come into operation on such day or days as the Department may by order appoint.

(3) An order under paragraph (2) may contain such transitional provisions and savings as the Department thinks appropriate.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order—

“the Department” means the Department of the Environment;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c. 33);

“the principal Act” means the Local Government Act (Northern Ireland) 1972 (c. 9).

(3) Expressions used in this Order and in the principal Act have the same meaning in this Order as in that Act.

PART II

LOCAL GOVERNMENT AUDIT

Audit of accounts

Audit of accounts of councils, etc.

3.—(1) The accounts of every local government body—

(a) shall be made up to the end of each financial year; and

(b) shall be audited in accordance with this Part by a local government auditor assigned by the Department, after consultation with the Comptroller and Auditor General for Northern Ireland.

(2) In this Part “local government body” means—

(a) a council;

(b) a committee of a council for which accounts are separately kept;

(c) a joint committee of two or more councils.

(3) Without prejudice to section 19(9)(c) of the principal Act, in its application to a joint committee this Part has effect as if any reference to the district of a council included a reference to the districts of all the councils which have concurred in appointing a joint committee.

Local government auditors

4.—(1) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate persons who are members of the staff of the Northern Ireland Audit Office as local government auditors.

(2) Only persons so designated may—

(a) audit accounts which are by law subject to audit by local government auditors; or

(b) exercise any other function conferred by law on such auditors.

(3) The Department may, with the consent of the Comptroller and Auditor General for Northern Ireland, designate a local government auditor as chief local government auditor.

(4) The chief local government auditor shall in respect of each financial year prepare a report as to the exercise by local government auditors of their functions in that year and shall send a copy of that report to each council and to the Department.

(5) Any sums payable by a local government auditor in consequence of any liability for breach of duty (whether arising under a contract or otherwise) incurred by him in performing his functions shall be charged on and issued out of the Consolidated Fund.

Code of audit practice

5.—(1) The chief local government auditor shall prepare, and keep under review, a code of audit practice prescribing the way in which auditors are to carry out their functions under this Part.

(2) The code shall embody what appears to the chief local government auditor to be the best professional practice with respect to the standards, procedures and techniques to be adopted by auditors.

(3) The code does not come into force until approved by a resolution of the Assembly, and its continuation in force is subject to its being so approved at intervals of not more than five years.

(4) Paragraph (3) does not preclude alterations to the code being made by the chief local government auditor in the intervals between its being approved in accordance with that paragraph.

(5) The chief local government auditor shall send copies of the code, and of any alterations made to the code, to the Department.

(6) The chief local government auditor shall publish the code as for the time being in force.

(7) The Department shall lay before the Assembly the code as for the time being in force.

(8) Before preparing or altering the code, the chief local government auditor shall consult district councils and—

- (a) such associations or bodies representative of district councils;
- (b) such associations or bodies representative of officers of councils;
- (c) such bodies of accountants; and
- (d) such other bodies or persons,

as appear to him to be appropriate.

General duties of local government auditors

6.—(1) In auditing accounts required to be audited in accordance with this Part, a local government auditor shall by examination of the accounts and otherwise satisfy himself—

- (a) that they are prepared in accordance with regulations under Article 24;
- (b) that they comply with the requirements of all other statutory provisions applicable to the accounts;
- (c) that proper practices have been observed in the compilation of the accounts; and
- (d) that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

(2) In auditing any such accounts the auditor shall comply with the code of audit practice as for the time being in force under Article 5.

(3) In relation to a local government body the reference to proper practices in paragraph (1)(c) is a reference to those accounting practices—

- (a) which the body is required to follow by virtue of any statutory provision; or
- (b) which, whether by reference to any generally recognised published code or otherwise, are regarded as proper accounting practices to be followed in the keeping of accounts of local government bodies, either generally or of the description concerned;

but, in the event of any conflict in any respect between the practices falling within sub-paragraph (a) and those falling within sub-paragraph (b), only those falling within sub-paragraph (a) are to be regarded as proper practices.

Auditors' right to documents and information

7.—(1) A local government auditor has a right of access at all reasonable times to every document relating to a local government body which appears to him necessary for the purposes of his functions under this Part.

(2) A local government auditor may—

- (a) require a person holding or accountable for any such document to give him such information and explanation as he thinks necessary for the purposes of his functions under this Part; and
- (b) if he thinks it necessary, require the person to attend before him in person to give the information or explanation or to produce the document.

(3) Without prejudice to paragraph (2), the auditor may—

- (a) require any officer or member of a local government body to give him such information or explanation as he thinks necessary for the purposes of his functions under this Part; and
- (b) if he thinks it necessary, require the officer or member to attend before him in person to give the information or explanation.

(4) Without prejudice to paragraphs (1) to (3), every local government body shall provide an auditor with every facility and all information which he may reasonably require for the purposes of his functions under this Part.

(5) A person who without reasonable excuse fails to comply with any requirement of an auditor under this Article is guilty of an offence and liable on summary conviction—

- (a) to a fine not exceeding level 3 on the standard scale, and
- (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.

(6) If, on an application made by a local government auditor, the High Court is satisfied that—

- (a) the auditor has made a requirement under this Article; and
- (b) a person or body specified in the application has, without reasonable excuse, failed to comply with that requirement,

the High Court may make an order directing that person or body to comply with that requirement within such time as is specified in the order.

(7) Any expenses incurred by an auditor—

- (a) in connection with proceedings for an offence under paragraph (5) alleged to have been committed in relation to the audit of the accounts of any body, or
- (b) in connection with proceedings under paragraph (6) arising in connection with the audit of the accounts of any body,

are, so far as not recovered from any other source, recoverable from that body.

Audit fees

8. There shall be paid to the Comptroller and Auditor General for Northern Ireland by every body whose accounts are audited by local government auditors such fees as the Department may determine.

Auditors' reports and recommendations

Immediate and other reports in the public interest

9. In auditing accounts of a local government body in accordance with this Part, a local government auditor shall consider—

- (a) whether, in the public interest, he should make a report on any matter coming to his notice in the course of the audit, in order for it to be considered by the body concerned or brought to the attention of the public, and
- (b) whether the public interest requires any such matter to be made the subject of an immediate report rather than of a report to be made at the conclusion of the audit.

General report

10.—(1) When a local government auditor has concluded his audit of the accounts of any body under this Part he shall, subject to paragraph (2), enter on the relevant statement of accounts prepared pursuant to regulations under Article 24—

- (a) a certificate that he has completed the audit in accordance with this Part, and
- (b) his opinion on the statement of accounts.

(2) Where an auditor makes a report to the body concerned under Article 9 at the conclusion of the audit, he may include the certificate and opinion referred to in paragraph (1) in that report instead of making an entry on the statement of accounts.

Transmission and consideration of Article 9 reports

11.—(1) Any report under Article 9 shall be sent by the auditor to the body concerned—

- (a) forthwith if it is an immediate report;
- (b) otherwise not later than 14 days after conclusion of the audit.

(2) A copy of the report shall be sent by the auditor to the Department—

- (a) forthwith if it is an immediate report;
- (b) otherwise not later than 14 days after conclusion of the audit.

(3) The body concerned shall take the report into consideration in accordance with Articles 12 and 13.

(4) The agenda supplied to the members for the meeting of the body at which the report is considered shall be accompanied by the report.

(5) The report shall not be omitted under the power in section 24(a) of the principal Act from the matter supplied under that section to a newspaper.

Consideration of reports or recommendations

12.—(1) A local government body shall consider in accordance with this Article and Article 13—

- (a) any report under Article 9, and
- (b) any written recommendation within paragraph (2),

sent to the body in connection with the audit of its accounts.

(2) A written recommendation is within this paragraph if—

- (a) it is made to the body concerned by a local government auditor; and

- (b) in the document containing it, the auditor states that in his opinion it should be considered under this Article.
- (3) The body concerned shall consider the report or recommendation at a meeting held before the end of the period of one month beginning with the day on which the report or recommendation was sent to the body.
- (4) At that meeting the body shall decide—
 - (a) whether the report requires the body to take any action or whether the recommendation is to be accepted; and
 - (b) what, if any, action to take in response to the report or recommendation.
- (5) If an auditor is satisfied that it is reasonable to allow more time for the body to comply with its duties under paragraphs (3) and (4) in relation to a report or recommendation, the auditor may, in relation to that report or recommendation, extend the period of one month mentioned in paragraph (3).
- (6) A period may be extended under paragraph (5) more than once.
- (7) Nothing in section 18, 19 or 47A of the principal Act (delegation of functions) applies to a duty imposed on a local government body by this Article.
- (8) This Article does not affect any duties (so far as they relate to the subject matter of a report or recommendation sent to a local government body) which are imposed by or under any other statutory provision.

Publicity for meeting under Article 12

- 13.—**(1) A meeting shall not be held for the purposes of Article 12(3) unless, at least 7 days before the meeting, there has been published, in at least two newspapers circulating in the district, a notice which—
- (a) states the time and place of the meeting,
 - (b) indicates that the meeting is to be held to consider an auditor’s report or recommendation (as the case may be), and
 - (c) describes the subject-matter of the report or recommendation.
- (2) The body concerned shall ensure that, as soon as practicable after the meeting—
- (a) the auditor of its accounts is notified of the decisions made under Article 12(4); and
 - (b) a notice containing a summary of those decisions which has been approved by the auditor is published in at least two newspapers circulating in that body’s district.
- (3) The notice required by paragraph (2)(b) in relation to a meeting—
- (a) need not summarise any decision made while the public were excluded from the meeting under section 23 of the principal Act; but
 - (b) shall indicate the documents in relation to the meeting which are open for inspection in accordance with section 121 of that Act.
- (4) This Article does not affect any provision made in relation to meetings of the body in question by Article 11(4) and (5) or any other statutory provision.

Additional publicity for immediate report

- 14.—**(1) This Article applies where under Article 11(1) a local government auditor has sent an immediate report to a local government body.
- (2) From the time when the report is received by the body any member of the public may—

- (a) inspect the report at all reasonable times without payment,
 - (b) make a copy of it, or of any part of it, and
 - (c) require the body to supply him with a copy of it, or of any part of it, on payment of a reasonable sum.
- (3) On receiving the report under Article 11(1), the body shall immediately—
- (a) publish a notice in at least two newspapers circulating in the district of the body; and
 - (b) supply a copy of the report to every member of the body.
- (4) The notice published under paragraph (3) shall—
- (a) identify the subject-matter of the report, and
 - (b) state that any member of the public may inspect the report and make a copy of it or any part of it between such times and at such place or places as are specified in the notice.
- (5) The auditor may—
- (a) notify any person he thinks fit of the fact that he has made the report, and
 - (b) supply a copy of it or of any part of it to any person he thinks fit.
- (6) A person who has the custody of an immediate report and—
- (a) obstructs a person in the exercise of a right conferred by paragraph (2)(a) or (b), or
 - (b) refuses to supply a copy of the report or of part of it (as the case may be) to a person entitled to the copy by virtue of paragraph (2)(c),
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (7) A person who fails to comply with a requirement of paragraph (3) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Nothing in this Article affects the operation of Article 11(4) and (5).

Additional publicity for non-immediate report

15.—(1) This Article applies where under Article 11(1) a local government auditor has sent a report that is not an immediate report to a local government body.

- (2) The local government auditor may—
- (a) notify any person he thinks fit of the fact that he has made the report,
 - (b) publish the report in any way he thinks fit; and
 - (c) supply a copy of the report, or of any part of it, to any person he thinks fit.
- (3) From the time when the report is sent under Article 11(1)—
- (a) the local government auditor shall ensure that any member of the public may—
 - (i) inspect the report at all reasonable times without payment, and
 - (ii) make a copy of the report, or of any part of it,
 - (b) any member of the public may require the auditor to supply him with a copy of the report, or of any part of it, on payment of a reasonable sum.

Public inspection and right to make objection

Inspection of statements of accounts and auditors' reports

16.—(1) Any member of the public may—

- (a) inspect and make copies of any statement of accounts prepared by a local government body pursuant to regulations under Article 24;
 - (b) inspect and make copies of any report (other than an immediate report) made to the body by a local government auditor;
 - (c) require copies of any such statement or report to be delivered to him on payment of a reasonable sum for each copy.
- (2) A document which a person is entitled to inspect under this Article may be inspected at all reasonable times and without payment.
- (3) A person who has the custody of any such document and—
- (a) obstructs a person in the exercise of a right under this Article to inspect or make copies of the document, or
 - (b) refuses to give copies of the document to a person entitled under this Article to obtain them,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) References in this Article to copies of a document include references to any part of it.

Inspection of documents and questions at audit

- 17.—(1) At each audit under this Part, any member of the public may—
- (a) inspect the accounts to be audited and all books, deeds, contracts, bills, vouchers and receipts relating to them; and
 - (b) make copies of all or any part of the accounts and those other documents.
- (2) At the request of an interested person, the auditor shall give that person an opportunity to question the auditor about the accounts.
- (3) Nothing in this Article entitles a person—
- (a) to inspect so much of any accounts or other document as contains personal information about an officer of the body whose accounts are being audited; or
 - (b) to require any such information to be disclosed in answer to any question.
- (4) For the purposes of paragraph (3), information is to be regarded as personal information about an officer of the body if it relates specifically to a particular individual and is available to the body for reasons connected with the fact—
- (a) that the individual holds or has held any office or employment under that body; or
 - (b) that payments or other benefits in respect of his holding or ceasing to hold any office or employment under any other person are or have been made or provided to that individual by that body.
- (5) In this Article “interested person” means—
- (a) a local elector for the district of the body to which the audit relates; or
 - (b) a person liable for rates in respect of any hereditament situated in that district; or
 - (c) a representative of a person mentioned in sub-paragraph (a) or (b).

Right to make objections at audit

- 18.—(1) At each audit of accounts under this Part an interested person may attend before the auditor and (in accordance with paragraph (2)) make objections as to—
- (a) any matter in respect of which the auditor could take action under Article 19 or 20; or

- (b) any other matter in respect of which the auditor could make a report under Article 9.
- (2) No objection may be made under paragraph (1) unless the auditor has received written notice of the proposed objection and of the grounds on which it is to be made.
- (3) An interested person sending a notice to an auditor for the purposes of paragraph (2) shall at the same time send a copy of the notice to the body whose accounts are being audited.
- (4) In this Article “interested person” means—
 - (a) a local elector for the district of the body to which the audit relates; or
 - (b) a person liable for rates in respect of any hereditament situated in that district; or
 - (c) a representative of a person mentioned in sub-paragraph (a) or (b).

Action by the auditor

Declaration that item of account is unlawful

19.—(1) Where it appears to a local government auditor at any audit held by him that any item of account is contrary to law, he may apply to the High Court for a declaration that the item is contrary to law except where it is sanctioned by the Department.

(2) On an application under this Article the High Court may make or refuse to make the declaration applied for, and where the High Court makes that declaration, then, subject to paragraph (3), it may also—

- (a) order that any person responsible for incurring or authorising any expenditure declared unlawful shall repay it in whole or in part to the body concerned and, where two or more persons are found to be responsible, that they shall be jointly and severally liable to repay it as aforesaid;
- (b) if any such expenditure exceeds £2,000 and the person responsible for incurring or authorising it is, or was at the time of his conduct in question, a member of the body concerned, order him to be disqualified for being elected or being a member of a council for a specified period; and
- (c) order rectification of the accounts.

(3) The High Court shall not make an order under paragraph (2)(a) or (b) if it is satisfied that the person responsible for incurring or authorising any such expenditure acted reasonably or in the belief that the expenditure was authorised by law, and in any other case shall have regard to all the circumstances, including that person’s means and ability to repay that expenditure or any part of it.

(4) Any person who has made an objection under Article 18(1)(a) and is aggrieved by a decision of an auditor not to apply for a declaration under this Article may—

- (a) not later than 6 weeks after he has been notified of the decision, require the auditor to state in writing the reasons for his decision; and
- (b) appeal against the decision to the High Court,

and on any such appeal the High Court shall have the same powers in relation to the item of account to which the objection relates as if the auditor had applied for a declaration under paragraph (1) in relation to the item of account.

(5) On an application or appeal under this Article relating to the accounts of a body, the High Court may make such order as it thinks fit for the payment by that body of expenses incurred in connection with the application or appeal by—

- (a) the auditor;
- (b) the person to whom the application or appeal relates; or

- (c) the person by whom the appeal is brought.

Recovery of amount not accounted for, etc.

20.—(1) Where it appears to a local government auditor at any audit held by him—

- (a) that any person has failed to bring into account any sum which should have been so included and that the failure has not been sanctioned by the Department; or

(b) that a loss has been incurred or deficiency caused by the wilful misconduct of any person, he shall certify that the sum or, as the case may be, the amount of the loss or the deficiency is due from that person.

(2) Subject to paragraphs (4) and (5), both the auditor and the body concerned may recover for the benefit of the body a sum or amount so certified; and if the auditor certifies that any sum or amount is due from two or more persons, they shall be jointly and severally liable for that sum or amount.

(3) Any person who—

- (a) has made an objection under Article 18(1)(a) and is aggrieved by a decision of an auditor not to certify under this Article that a sum or amount is due from another person; or

- (b) is aggrieved by a decision of an auditor to certify under this Article that a sum or amount is due from him,

may not later than 6 weeks after he has been notified of the decision require the auditor to state in writing the reasons for his decision.

(4) Any such person who is aggrieved by such a decision may appeal against the decision to the High Court and—

- (a) in the case of a decision to certify that any sum or amount is due from any person, the High Court may confirm, vary or quash the decision and give any certificate which the auditor could have given;

- (b) in the case of a decision not to certify that any sum or amount is due from any person, the High Court may confirm the decision or quash it and give any certificate which the auditor could have given.

(5) If a certificate under this Article relates to a loss or deficiency caused by the wilful misconduct of a person who is, or was at the time of such misconduct, a member of the council concerned and the amount certified to be due from him exceeds £2,000, that person shall be disqualified for being elected or being a member of a council for the period of 5 years beginning on—

- (a) the ordinary date on which the period allowed for bringing an appeal against a decision to give the certificate expires; or

- (b) if such an appeal is brought, the date on which the appeal is finally disposed of or abandoned or fails for non-prosecution.

(6) A sum or other amount certified under this Article to be due from any person shall be payable within 14 days after the date of the issue of the certificate or, if an appeal is brought, within 14 days after the appeal is finally disposed of or abandoned or fails for non-prosecution.

(7) In any proceedings for the recovery of any sum or amount due from any person under this Article—

- (a) a certificate signed by a local government auditor stating that that sum or amount is due from a person specified in the certificate to a council so specified shall be conclusive evidence of that fact; and

- (b) any certificate purporting to be so signed shall be taken to have been so signed unless the contrary is proved.

(8) On an appeal under this Article relating to the accounts of a body the High Court may make such order as the High Court thinks fit for the payment by that body of expenses incurred in connection with the appeal by—

- (a) the auditor;
- (b) the person to whom the appeal relates; or
- (c) the person by whom the appeal is brought.

(9) Any expenses incurred by an auditor in recovering a sum or other amount certified under this Article to be due in connection with the accounts of a body shall, so far as not recovered from any other source, be recoverable from that body unless the High Court otherwise directs.

Power of auditor to apply for judicial review

21.—(1) Subject to section 18(2)(a) of the Judicature (Northern Ireland) Act 1978 (c. 23) (no application for judicial review without leave) a local government auditor may make an application for judicial review with respect to—

- (a) any decision of a local government body, or
- (b) any failure by a local government body to act,

if it is reasonable to believe that the decision or failure would have an effect on the accounts of that body.

(2) The existence of the powers conferred on a local government auditor under this Part shall not be regarded as a ground for refusing—

- (a) an application falling within paragraph (1); or
- (b) an application for leave to make such an application.

(3) On an application for judicial review made as mentioned in paragraph (1), the High Court may make such order as it thinks fit for the payment by the body to whose decision or failure the application relates of expenses incurred by the local government auditor in connection with the application.

Miscellaneous

Extraordinary audits and inspections

22.—(1) The Department may at any time direct a local government auditor to hold an extraordinary audit of the accounts of any local government body.

(2) An extraordinary audit held under this Article shall be deemed to be an audit for the purposes of this Part (other than Article 17), and the provisions of this Part, so far as applicable, shall apply accordingly.

(3) An extraordinary audit may be held after three days' notice in writing given to the body whose accounts are to be audited.

Provision for the audit of accounts of officers

23.—(1) Where an officer of a local government body receives money or other property—

- (a) on behalf of that body, or
- (b) for which he ought to account to that body,

the accounts of the officer shall be audited by the auditor of the accounts of that body.

(2) Articles 3(1), 6 to 11, 14 to 20, 22 and 24 apply with the necessary modifications to the accounts and audit.

Regulations as to accounts and audit

24.—(1) The Department may by regulations applying to bodies subject to audit under this Part make provision with respect to—

- (a) the keeping of accounts;
- (b) the form, preparation and certification of accounts and of statements of account;
- (c) the deposit of the accounts of any body at the offices of the body or at any other place;
- (d) the publication of information relating to accounts and the publication of statements of accounts; and
- (e) the exercise of any rights of objection or inspection conferred by Article 16, 17 or 18 and the steps to be taken by any body for informing members of the public of those rights.

(2) Regulations under this Article may—

- (a) provide for the statement of accounts of a body to be in the form directed by the Department;
- (b) provide that within such period after the expiration of the financial year to which a statement of accounts relates as the Department directs, the prescribed officer of the body shall deliver to the Department such number of copies of the statement as the Department directs;
- (c) impose other prescribed duties on a prescribed officer of the body or confer prescribed powers on such an officer.

(3) Regulations under this Article may provide for penalties, not exceeding a fine of level 3 on the standard scale on summary conviction, for contraventions of the regulations.

(4) Before making any regulations under this Article, the Department shall consult councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as appear to the Department to be appropriate.

(5) Regulations under this Article—

- (a) may include supplementary, incidental, consequential or transitional provisions; and
- (b) shall be subject to negative resolution.

Certification of claims, returns, etc.

25.—(1) The chief local government auditor shall, if so required by a local government body, make arrangements—

- (a) for certifying claims and returns in respect of grants or subsidies made or paid by any Northern Ireland department or public authority to that body;
- (b) for certifying any account submitted by that body to any such department with a view to obtaining payment under a contract between that body and the department; or
- (c) for certifying any return by the body which under any statutory provision is required or authorised to be certified by the body's auditor;

and in sub-paragraph (a) “public authority” means a body established by or under the Treaties or by or under any statutory provision.

(2) There shall be paid to the Comptroller and Auditor General for Northern Ireland by every body to which services are provided under this Article such fees as the Department may determine are appropriate to cover the full cost of providing those services.

Studies for improving economy, efficiency and effectiveness

26.—(1) A local government auditor shall, if required by the Department or the chief local government auditor, undertake comparative and other studies designed to enable him to make recommendations for improving economy, efficiency and effectiveness in the provision of services by local government bodies.

(2) Before requiring the undertaking of any study under paragraph (1) the Department or the chief local government auditor shall consult—

- (a) such councils;
- (b) such associations or bodies representative of councils;
- (c) such associations or bodies representative of officers of councils; and
- (d) such other persons or bodies,

as appear to the Department or the chief local government auditor to be appropriate.

(3) Where a study under paragraph (1) is required by the Department, the local government auditor concerned shall report the results of the study and any recommendations made by him as a result of the study to the Department and the Department shall publish or otherwise make available any such results and recommendations.

(4) Where a study under paragraph (1) is required by the chief local government auditor, the local government auditor concerned shall report the results of the study and any recommendations made by him as a result of the study to the chief local government auditor and the chief local government auditor shall publish or otherwise make available any such results and recommendations.

Restriction on disclosure of information

27.—(1) This Article applies to information relating to a particular body or other person which is obtained by an auditor under any provision of this Part or in the course of any audit or study under any such provision.

(2) No information to which this Article applies shall be disclosed except—

- (a) with the consent of the body or person to whom the information relates;
- (b) for the purposes of any functions of an auditor under this Part; or
- (c) for any purposes mentioned in section 17(1)(a) to (d) of the Anti-Terrorism, Crime and Security Act 2001 (c. 24) (criminal proceedings and investigations).

(3) A person who discloses information in contravention of paragraph (2) is guilty of an offence and liable—

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

(4) Paragraph (2) does not apply in relation to disclosure by a person who is, or acts on behalf of a person who is, a public authority for the purposes of the Freedom of Information Act 2000 (c. 36); and such a person may disclose any information to which this Article applies—

- (a) in the circumstances in which he would (but for this paragraph) be authorised to do so under paragraph (2); or

- (b) in any other circumstances, except where such a disclosure would, or would be likely to, prejudice the effective performance by the public authority of a function imposed or conferred on it by or under a statutory provision.

(5) A person mentioned in paragraph (4) who discloses any such information otherwise than as authorised by that paragraph is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Amendments and repeals

28.—(1) In section 44 of the Interpretation Act (Northern Ireland) 1954 (c. 33) in the definition of “local government auditor” for “section 74 of the Local Government Act (Northern Ireland) 1972” substitute “Article 4 of the Local Government (Northern Ireland) Order 2005”.

(2) In section 4(1) of the principal Act for paragraph (c) substitute—

“(c) he is disqualified for being elected or being a councillor under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005;”.

(3) In section 10(a) of the principal Act for the words “otherwise than under section 81 or 82 or by reason of” substitute “otherwise than under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005 or by reason of”

(4) In section 48(1) of the principal Act for the words “the operation of sections 81 and 82” substitute “the operation of Articles 19 and 20 of the Local Government (Northern Ireland) Order 2005”.

(5) In Schedule 3 to the principal Act, in paragraph 12 for the words “this Act” substitute “Part II of the Local Government (Northern Ireland) Order 2005”.

(6) In Schedule 1 to the [Audit \(Northern Ireland\) Order 1987 \(NI 5\)](#) in paragraph 2(1) for “section 74 of the Local Government Act (Northern Ireland) 1972” substitute “Article 4 of the Local Government (Northern Ireland) Order 2005”.

(7) In Article 6(5) of the [Local Government \(Northern Ireland\) Order 2002 \(NI 3\)](#) for “section 80, 88 or 89A of the Local Government Act (Northern Ireland) 1972” substitute “Part II of the Local Government (Northern Ireland) Order 2005”.

(8) The statutory provisions specified in Schedule 1 are repealed to the extent specified in the second column of that Schedule.

PART III

MISCELLANEOUS

Powers of district councils in relation to emergencies

29.—(1) A council may make arrangements, or enter into arrangements with other bodies or persons, for—

- (a) preventing the occurrence of an emergency;
- (b) reducing, controlling or mitigating the effects of any emergency which may occur.

(2) Those arrangements may in particular include—

- (a) arrangements for co-operation with other bodies or persons; and
- (b) arrangements for the co-ordination of the activities of the council with those of other bodies or persons.

(3) Where an emergency occurs—

- (a) a council may give effect to any arrangements made under paragraph (1); and
 - (b) take any other steps which it thinks appropriate for reducing, controlling or mitigating the effects of the emergency.
- (4) In carrying out its functions under paragraphs (1) to (3), a council shall have regard to any guidance issued by the Department.
- (5) Before issuing any guidance under paragraph (4) the Department shall consult councils and—
- (a) such associations or bodies representative of councils;
 - (b) such associations or bodies representative of officers of councils; and
 - (c) such other persons or bodies,
- as appear to it to be appropriate.
- (6) A Northern Ireland department may by order confer or impose on district councils other functions relating to emergencies.
- (7) An order under this Article—
- (a) may include supplementary, incidental, consequential or transitional provisions; and
 - (b) shall not be made unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.
- (8) In carrying out any functions conferred or imposed on it by an order under paragraph (6), a council shall have regard to any guidance issued by the Northern Ireland department which made the order.
- (9) Before issuing any guidance under paragraph (8), a Northern Ireland department shall consult councils and—
- (a) such associations or bodies representative of councils;
 - (b) such associations or bodies representative of officers of councils; and
 - (c) such other persons or bodies,
- as appear to it to be appropriate.
- (10) The Department may make grants to district councils or other persons for the purpose of, or in connection with, arrangements made or entered into under paragraph (1).
- (11) A grant under paragraph (10) shall be—
- (a) of such amount, and
 - (b) made subject to such conditions,
- as the Department may determine.
- (12) Grants shall not be made under paragraph (10) without the consent of the Department of Finance and Personnel.
- (13) In this Article—
- “emergency”, in relation to a council, means an emergency affecting the whole or part of the district of the council or all or some of its inhabitants;
 - “other bodies or persons” includes other councils.

Use of fixed penalty receipts

30.—(1) In Article 6(6) of the [Litter \(Northern Ireland\) Order 1994 \(NI 10\)](#) (which requires councils to pay fixed penalties for litter and dog fouling offences to the Department) for the words from “as respects the sums received” to the end substitute “and any sums received by a council in respect of fixed penalties shall be dealt with in accordance with Article 6A”.

(2) After Article 6 of that Order insert—

“Use of fixed penalty receipts

6A.—(1) A council may use its fixed penalty receipts only for the purposes of—

- (a) its functions under Articles 5 and 6;
- (b) such other functions (if any) as are specified in regulations made by the Department.

(2) A council shall supply the Department with such information relating to its use of its fixed penalty receipts as the Department may require.

(3) The Department may by regulations—

- (a) make provision for what a council is to do with its fixed penalty receipts—
 - (i) pending their being used for the purposes mentioned in paragraph (1);
 - (ii) if they are not so used before such time after their receipt as may be specified in the regulations;
- (b) make provision for accounting arrangements in respect of a council’s fixed penalty receipts.

(4) The provision that may be made under paragraph (3)(a)(ii) includes (in particular) provision for the payment of sums to a person (including the Department) other than the council.

(5) Before making regulations under this Article the Department shall consult councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as the Department considers appropriate.

(6) In this Article references to a council’s fixed penalty receipts are to the sums received by the council in respect of fixed penalties under Article 6.”

Regulation of cosmetic piercing and skin-colouring businesses

31.—(1) Article 14 of the [Local Government \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1985 \(NI 15\)](#) (regulation of tattooing, ear-piercing and electrolysis businesses) is amended as follows.

(2) In paragraph (1) (requirement for person carrying on business to be registered), for sub-paragraph (b) (ear-piercing) substitute—

- “(aa) of semi-permanent skin-colouring;
- (b) of cosmetic piercing; or”

(and in the head-note for “ear-piercing” substitute “semi-permanent skin-colouring, cosmetic piercing”).

(3) In paragraph (2) (requirement to register premises where business carried on)—

- (a) for “ear-piercing” substitute “semi-permanent skin-colouring, cosmetic piercing”, and
- (b) for “pierce their ears” substitute “carry out semi-permanent skin-colouring on them, pierce their bodies”.

(4) In paragraph (5) (council may not require particulars about individuals whose ears have been pierced etc.), for “or whose ears he has pierced” substitute “, whose bodies he has pierced or on whom he has carried out semi-permanent skin-colouring”.

(5) After paragraph (8) insert—

“(9) In this Article “semi-permanent skin-colouring” means the insertion of semi-permanent colouring into a person’s skin.”.

(6) Schedule 2 (which contains transitional provisions) has effect.

Alteration of limit on expenditure under section 115 of the principal Act

32.—(1) In section 115 of the principal Act (expenditure by council for special purposes) after subsection (2) (which sets a limit on that expenditure) insert—

“(2A) Regulations may amend paragraph (b) of subsection (2) by substituting for “0.5p” (or such amount as is for the time being specified therein by virtue of this subsection) such other amount as is prescribed.

(2B) Regulations shall not be made under subsection (2A) unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.”.

(2) In section 143 of that Act after “regulations made under this Act” insert “(other than regulations under section 115(2A))”.

Indemnification of members and officers of councils

33.—(1) The Department may by order make provision for or in connection with conferring power on councils to provide indemnities to some or all of their members and officers.

(2) Before making an order under this Article the Department shall consult councils and—

- (a) such associations or bodies representative of councils;
- (b) such associations or bodies representative of officers of councils; and
- (c) such other persons or bodies,

as the Department considers appropriate.

(3) An order under this Article—

- (a) may include supplementary, incidental, consequential or transitional provisions; and
- (b) shall not be made unless a draft of the order has been laid before, and approved by resolution of, the Assembly.

(4) In this Article “member” in relation to a council, includes—

- (a) a member of any committee of the council;
- (b) a person who is a member of, and represents the council on, any joint committee.

Annual statements under local government superannuation regulations

34. In Article 9 of the [Superannuation \(Northern Ireland\) Order 1972 \(NI 10\)](#) (regulations as to superannuation of persons employed in local government service, etc.) after paragraph (2) insert—

“(2A) Regulations under this Article may—

- (a) require any financial statement relating to any fund maintained under the regulations to be prepared in accordance with guidance for the time being issued by the Department of Finance and Personnel; and
- (b) regulate the issue of such guidance by that Department.”.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a
UK Statutory Instrument: The Local Government (Northern Ireland) Order 2005 No. 1968

Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 28

REPEALS

Short Title	Extent of repeal
The Local Government Act (Northern Ireland) 1972	Section 48. Sections 74 to 89A. Section 121(3). In section 143, the words “82, 83, 86”. In section 148(1), the definition of “prohibition order”. In Schedule 7, the entries relating to sections 76 to 82 of the principal Act.
The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (NI 15)	Articles 28 to 30.
The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992 (NI 6)	Article 36(1) and (2). Articles 37 and 38.
The Audit and Accountability (Northern Ireland) Order 2003 (NI 5)	Article 7.

SCHEDULE 2

Article 31

TRANSITIONAL PROVISIONS

Commencement not to affect existing application of Article 14 of the 1985 Order

1. The coming into operation of Article 31 shall not affect the descriptions of person in relation to whom Article 14 of the 1985 Order applies in a district in which that Article is already in force.

Commencement not to affect pending resolutions about the application of Article 14 of the 1985 Order

2.—(1) This paragraph applies where immediately before the coming into operation of Article 31—

- (a) there is in force a resolution under Article 12(2) of the 1985 Order that Article 14 of that Order is to apply to a council's district, and
 - (b) the resolution specifies as the day for the coming into force of that Article the day on which Article 31 comes into operation, or any later day.
- (2) The coming into operation of Article 31 shall not affect—
- (a) the validity of the resolution, or
 - (b) the descriptions of person in relation to whom Article 14 of that Order applies in pursuance of the resolution.

Additional powers of commencement in relation to Article 14 of the 1985 Order, as amended

3.—(1) This paragraph applies where a council has before the coming into operation of Article 31 passed a resolution that provides, or resolutions that between them provide, for Article 14 of the 1985 Order to apply to the council's district in relation to all of the existing descriptions of person.

(2) Article 12 of that Order shall have effect for the purpose of enabling the council to bring Article 14 of that Order into force in its district—

- (a) in relation to persons carrying on the business of cosmetic piercing, and
- (b) in relation to persons carrying on the business of semi-permanent skin-colouring.

(3) In sub-paragraph (1), the reference to the existing descriptions of person is to the descriptions of person specified in Article 14(1) of that Order immediately before the coming into operation of Article 31.

Effect of existing ear-piercing registrations following extension of control to cosmetic piercing

4.—(1) This paragraph applies where, immediately before Article 14 of the 1985 Order comes into force in a council's district in relation to persons carrying on the business of cosmetic piercing—

- (a) that Article is in force in the district in relation to persons carrying on the business of ear-piercing, and
- (b) a person is registered under that Article by the council to carry on a business of ear-piercing at premises in the district which are registered under that Article for the carrying-on of that business.

(2) From the coming into force of that Article in that district in relation to persons carrying on the business of cosmetic piercing, the registrations of the person and the premises in respect of ear-piercing shall have effect as registrations in respect of cosmetic piercing, subject to sub-paragraph (3).

(3) Sub-paragraph (2) ceases to apply when the business of cosmetic piercing carried on by the person at the premises subsequently first involves cosmetic piercing other than ear-piercing.

Interpretation

5.—(1) In this Schedule “the 1985 Order” means the [Local Government \(Miscellaneous Provisions\) \(Northern Ireland\) Order 1985 \(NI 15\)](#).

(2) In this Schedule, except paragraph 2(1)(a) and 3(1), any reference to Article 14 of the 1985 Order includes a reference to Article 15 of that Order so far as it has effect for the purposes of that Article.

EXPLANATORY NOTE

(This note is not part of the Order)

Part II of this Order makes new provision for the audit of district council accounts. Part III confers miscellaneous new powers on district councils and makes minor amendments to existing statutory provisions concerning such councils.