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## STATUTORY INSTRUMENTS

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# 1990 No. 593

## The Companies (Northern Ireland) Order 1990 (repealed)

### PART III <sup>F1</sup>

#### ELIGIBILITY FOR APPOINTMENT AS COMPANY AUDITOR

<b>F1</b> mod. by SI 2005/18
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#### *Introduction*

#### **Introduction**

**27.**—(1) The main purposes of this Part are to secure that only persons who are properly supervised and appropriately qualified are appointed company auditors, and that audits by persons so appointed are carried out properly and with integrity and with a proper degree of independence.

(2) A “company auditor” means a person appointed as auditor under Chapter V of Part XII of the 1986 Order; and the expressions “company audit” and “company audit work” shall be construed accordingly.

#### *Eligibility for appointment*

#### **Eligibility for appointment**

**28.**—(1) A person is eligible for appointment as a company auditor only if he—

- (a) is a member of a recognised supervisory body, and
- (b) is eligible for the appointment under the rules of that body.

(2) An individual or a firm may be appointed a company auditor.

#### **Effect of appointment of partnership**

**29.**—(1) The following provisions apply to the appointment as company auditor of a partnership constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person.

(2) The appointment is (unless a contrary intention appears) an appointment of the partnership as such and not of the partners.

(3) Where the partnership ceases, the appointment shall be treated as extending to—

- (a) any partnership which succeeds to the practice of that partnership and is eligible for the appointment, and
- (b) any person who succeeds to that practice having previously carried it on in partnership and is eligible for the appointment.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Companies (Northern Ireland) Order 1990 (repealed), PART III. (See end of Document for details)*

(4) For this purpose a partnership shall be regarded as succeeding to the practice of another partnership only if the members of the successor partnership are substantially the same as those of the former partnership; and a partnership or other person shall be regarded as succeeding to the practice of a partnership only if it or he succeeds to the whole or substantially the whole of the business of the former partnership.

(5) Where the partnership ceases and no person succeeds to the appointment under paragraph (3), the appointment may with the consent of the company be treated as extending to a partnership or other person eligible for the appointment who succeeds to the business of the former partnership or to such part of it as is agreed by the company shall be treated as comprising the appointment.

### **Ineligibility on ground of lack of independence**

**30.**—(1) A person is ineligible for appointment as company auditor of a company if he is—

(a) an officer or employee of the company, or

(b) a partner or employee of such a person, or a partnership of which such a person is a partner, or if he is ineligible by virtue of sub-paragraph (a) or (b) for appointment as company auditor of any associated undertaking of the company.

For this purpose an auditor of a company shall not be regarded as an officer or employee of the company.

(2) A person is also ineligible for appointment as company auditor of a company if there exists between him or any associate of his and the company or any associated undertaking a connection of any such description as may be specified by regulations made by the Department.

(3) In this Article “associated undertaking”, in relation to a company, means—

(a) a parent undertaking or subsidiary undertaking of the company, or

(b) a subsidiary undertaking of any parent undertaking of the company.

(4) Regulations under this Article shall be subject to negative resolution.

#### **Modifications etc. (not altering text)**

**C1** [Art. 30](#) applied (temp. from 15.12.2007) by [Companies \(Cross-Border Mergers\) Regulations 2007 \(S.I. 2007/2974\)](#), regs. 4(6), 9, [Sch. 1 para. 4\(1\)\(3\)](#)

### **Effect of ineligibility**

**31.**—(1) No person shall act as a company auditor if he is ineligible for appointment to the office.

(2) If during his term of office a company auditor becomes ineligible for appointment to the office, he shall thereupon vacate office and shall forthwith give notice in writing to the company concerned that he has vacated it by reason of ineligibility.

(3) A person who acts as company auditor in contravention of paragraph (1), or fails to give notice of vacating his office as required by paragraph (2), is guilty of an offence and liable—

(a) on conviction on indictment, to a fine, and

(b) on summary conviction, to a fine not exceeding the statutory maximum.

(4) In the case of continued contravention he is liable on a second or subsequent summary conviction (instead of the fine mentioned in paragraph (3)(b)) to a fine not exceeding one-tenth of the statutory maximum in respect of each day on which the contravention is continued.

(5) In proceedings against a person for an offence under this Article it is a defence for him to show that he did not know and had no reason to believe that he was, or had become, ineligible for appointment.

#### Power of Department to require second audit

**32.**—(1) Where a person appointed company auditor was, for any part of the period during which the audit was conducted, ineligible for appointment to that office, the Department may direct the company concerned to retain a person eligible for appointment as auditor of the company—

(a) to audit the relevant accounts again, or

(b) to review the first audit and to report (giving his reasons) whether a second audit is needed; and the company shall comply with such a direction within 21 days of its being given.

(2) If a second audit is recommended the company shall forthwith take such steps as are necessary to comply with the recommendation.

(3) Where a direction is given under this Article, the Department shall send a copy of the direction to the registrar; and the company shall within 21 days of receiving any report under paragraph (1) (b) send a copy of it to the registrar.

The provisions of the 1986 Order relating to the delivery of documents to the registrar apply for the purposes of this paragraph.

(4) Any statutory or other provisions applying in relation to the first audit shall apply, so far as practicable, in relation to a second audit under this Article.

(5) If a company fails to comply with the requirements of this Article, it is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum; and in the case of continued contravention it is liable on a second or subsequent summary conviction (instead of the fine mentioned above) to a fine not exceeding one-tenth of the statutory maximum in respect of each day on which the contravention is continued.

(6) A direction under this Article is, on the application of the Department, enforceable by injunction.

(7) If a person accepts an appointment, or continues to act, as company auditor at a time when he knows he is ineligible, the company concerned may recover from him any costs incurred by it in complying with the requirements of this Article.

#### *Recognition of supervisory bodies and professional qualifications*

#### Supervisory bodies

**33.**—(1) In this Part a “supervisory body” means a body established in the United Kingdom (whether a body corporate or an unincorporated association) which maintains and enforces rules as to—

(a) the eligibility of persons to seek appointment as company auditors, and

(b) the conduct of company audit work,

which are binding on persons seeking appointment or acting as company auditors either because they are members of that body or because they are otherwise subject to its control.

(2) In this Part references to the members of a supervisory body are to the persons who, whether or not members of the body, are subject to its rules in seeking appointment or acting as company auditors.

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Companies (Northern Ireland) Order 1990 (repealed), PART III. (See end of Document for details)*

(3) In this Part references to the rules of a supervisory body are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of this Part.

This includes rules relating to the admission and expulsion of members of the body, so far as relevant for the purposes of this Part.

(4) In this Part references to guidance issued by a supervisory body are to guidance issued or any recommendation made by it to all or any class of its members or persons seeking to become members which would, if it were a rule, fall within paragraph (3).

(5) The provisions of<sup>F2</sup> Parts I and II of Schedule 11 have effect with respect to the recognition of supervisory bodies for the purposes of this Part.

**F2** prosp. subst. by 2005 NI 17

### Meaning of “appropriate qualification”

34.—(1) A person holds an appropriate qualification for the purposes of this Part if—

- (a) he was, by virtue of membership of a body recognised for the purposes of Article 397(1) (a) of the 1986 Order, qualified for appointment as auditor of a company under that Article immediately before 1st January 1990 and immediately before the coming into operation of Article 28,
- (b) he holds a recognised professional qualification obtained in the United Kingdom, or
- (c) he holds an approved overseas qualification and satisfies any additional educational requirements applicable in accordance with Article 36(4).

(2) A person who, immediately before 1st January 1990 and immediately before the coming into operation of Article 28, was qualified for appointment as auditor of a company under Article 397 of the 1986 Order otherwise than by virtue of membership of a body recognised for the purposes of Article 397(1)(a)—

- (a) shall be treated as holding an appropriate qualification for 12 months from the day on which Article 28 comes into operation, and
- (b) shall continue to be so treated if within that period he notifies the Department that he wishes to retain the benefit of his qualification.

The notice shall be in writing and shall contain such information as the Department may require.

(3) If a person fails to give such notice within the time allowed he may apply to the Department, giving such information as would have been required in connection with a notice, and the Department may, if it is satisfied—

- (a) that there was good reason why the applicant did not give notice in time, and
- (b) that the applicant genuinely intends to practise as an auditor in Northern Ireland,

direct that he shall be treated as holding an appropriate qualification for the purposes of this Part.

(4) A person who—

- (a) began before 1st January 1990 a course of study or practical training leading to a professional qualification in accountancy offered by a body established in the United Kingdom, and
- (b) obtained that qualification on or after that date and before 1st January 1996,

shall be treated as holding an appropriate qualification if the qualification is approved by the Department for the purposes of this paragraph.

(5) Approval shall not be given unless the Department is satisfied that the body concerned has or, as the case may be, had at the relevant time adequate arrangements to ensure that the qualification is, or was, awarded only to persons educated and trained to a standard equivalent to that required in the case of a recognised professional qualification.

(6) A person shall not be regarded as holding an appropriate qualification for the purposes of this Part except in the above cases.

### Qualifying bodies and recognised professional qualifications

**35.**—(1) In this Part a “qualifying body” means a body established in the United Kingdom (whether a body corporate or an unincorporated association) which offers a professional qualification in accountancy.

(2) In this Part references to the rules of a qualifying body are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of this Part.

This includes rules relating to—

- (a) admission to or expulsion from a course of study leading to a qualification,
- (b) the award or deprivation of a qualification, or
- (c) the approval of a person for the purposes of giving practical training or the withdrawal of such approval,

so far as relevant for the purposes of this Part.

(3) In this Part references to guidance issued by any such body are to any guidance which the body issues, or any recommendation it makes to all or any class of persons holding or seeking to hold a qualification, or approved or seeking to be approved by the body for the purpose of giving practical training, which would, if it were a rule, fall within paragraph (2).

(4) The provisions of Parts I and II of Schedule 12 have effect with respect to the recognition for the purposes of this Part of a professional qualification offered by a qualifying body.

### Approval of overseas qualifications

**36.**—<sup>F3</sup>(1) The Department may declare that persons who—

- (a) are qualified to audit accounts under the law of a specified country or territory outside the United Kingdom, or
- (b) hold a specified professional qualification in accountancy recognised under the law of a country or territory outside the United Kingdom,

shall be regarded for the purposes of this Part as holding an approved overseas qualification.

<sup>F3</sup>(2) A qualification shall not be so approved by the Department unless it is satisfied that it affords an assurance of professional competence equivalent to that afforded by a recognised professional qualification.

(3) In exercising the power conferred by paragraph (1) the Department may have regard to the extent to which persons—

- (a) eligible under this Part for appointment as a company auditor, or
- (b) holding a professional qualification recognised under this Part,

are recognised by the law of the country or territory in question as qualified to audit accounts there.

(4) The Department may direct that a person holding an approved overseas qualification shall not be treated as holding an appropriate qualification for the purposes of this Part unless he holds such additional educational qualifications as the Department may specify for the purpose of ensuring that

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such persons have an adequate knowledge of the law and practice in the United Kingdom relevant to the audit of accounts.

(5) Different directions may be given in relation to different qualifications.

<sup>F3</sup>(6) The Department may if it thinks fit, having regard to the considerations mentioned in paragraphs (2) and (3), withdraw its approval of an overseas qualification in relation to persons becoming qualified as mentioned in paragraph (1)(a), or obtaining such a qualification as is mentioned in paragraph (1)(b), after such date as it may specify.

**F3** prosp. subst. by 2005 NI 17

### *Duties of recognised bodies*

#### **The register of auditors**

**37.**—(1) The Department shall make regulations requiring the keeping of a register of—

- (a) the individuals and firms eligible for appointment as company auditor, and
- (b) the individuals holding an appropriate qualification who are responsible for company audit work on behalf of such firms.

(2) The regulations shall provide that each person's entry in the register shall give—

- (a) his name and address, and
- (b) in the case of a person eligible as mentioned in paragraph (1)(a), the name of the relevant supervisory body,

together with such other information as may be specified by the regulations.

(3) The regulations may impose such obligations as the Department thinks fit—

- (a) on recognised supervisory bodies,
- (b) on persons eligible for appointment as company auditor, and
- (c) on any person with whom arrangements are made by one or more recognised supervisory bodies with respect to the keeping of the register.

(4) The regulations may include provision—

- (a) requiring the register to be open to inspection at such times and places as may be specified in the regulations or determined in accordance with them,
- (b) enabling a person to require a certified copy of an entry in the register, and
- (c) authorising the charging of fees for inspection, or the provision of copies, of such reasonable amount as may be specified in the regulations or determined in accordance with them,

and may contain such other supplementary and incidental provisions as the Department thinks fit.

(5) Regulations under this Article shall be subject to negative resolution.

(6) The obligations imposed by regulations under this Article on such persons as are mentioned in paragraph (3)(a) or (c) are enforceable on the application of the Department by injunction.

#### **Information about firms to be available to public**

**38.**—(1) The Department shall make regulations requiring recognised supervisory bodies to keep and make available to the public the following information with respect to the firms eligible under their rules for appointment as a company auditor—

(a) in relation to a body corporate, the name and address of each person who is a director of the body or holds any shares in it,  
(b) in relation to a partnership, the name and address of each partner,  
and such other information as may be specified in the regulations.

(2) The regulations may impose such obligations as the Department thinks fit—

- (a) on recognised supervisory bodies,
- (b) on persons eligible for appointment as company auditor, and
- (c) on any person with whom arrangements are made by one or more recognised supervisory bodies with respect to the keeping of the information.

(3) The regulations may include provision—

- (a) requiring that the information be open to inspection at such times and places as may be specified in the regulations or determined in accordance with them,
- (b) enabling a person to require a certified copy of the information or any part of it, and
- (c) authorising the charging of fees for inspection, or the provision of copies, of such reasonable amount as may be specified in the regulations or determined in accordance with them;

and may contain such other supplementary and incidental provisions as the Department thinks fit.

(4) Regulations under this Article shall be subject to negative resolution.

(5) The obligations imposed by regulations under this Article on such persons as are mentioned in paragraph (2)(a) or (c) are enforceable on the application of the Department by injunction.

### **Matters to be notified to the Department**

**39.**—(1) The Department may require a recognised supervisory or qualifying body—

- (a) to notify it forthwith of the occurrence of such events as it may specify in writing and to give it such information in respect of those events as is so specified;
- (b) to give it, at such times or in respect of such periods as it may specify in writing, such information as is so specified.

(2) The notices and information required to be given shall be such as the Department may reasonably require for the exercise of its functions under this Part.

(3) The Department may require information given under this Article to be given in a specified form or verified in a specified manner.

(4) Any notice or information required to be given under this Article shall be given in writing unless the Department specifies or approves some other manner.

### **Power to call for information**

**40.**—(1) The Department may by notice in writing require a recognised supervisory or qualifying body to give it such information as it may reasonably require for the exercise of its functions under this Part.

(2) The Department may require that any information which it requires under this Article shall be given within such reasonable time and verified in such manner as it may specify.

### **Compliance orders**

**41.**—(1) If at any time it appears to the Department—

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- (a) in the case of a recognised supervisory body, that any requirement of Schedule 11 is not satisfied,
- (b) in the case of a recognised professional qualification, that any requirement of Schedule 12 is not satisfied, or
- (c) that a recognised supervisory or qualifying body has failed to comply with an obligation to which it is subject by virtue of this Part,

it may, instead of revoking the relevant recognition order, make an application to the court under this Article.

(2) If on such application the court decides that the requirement in question is not satisfied or, as the case may be, that the body has failed to comply with the obligation in question it may order the supervisory or qualifying body in question to take such steps as the court directs for securing that the requirement is satisfied or that the obligation is complied with.

(3) The jurisdiction conferred by this Article is exercisable by the High Court.

### **Directions to comply with international obligations**

**42.**—(1) If it appears to the Department—

- (a) that any action proposed to be taken by a recognised supervisory or qualifying body, or a body<sup>F4</sup> established by order under Article 48, would be incompatible with Community obligations or any other international obligations of the United Kingdom, or
- (b) that any action which that body has power to take is required for the purpose of implementing any such obligations,

it may direct the body not to take or, as the case may be, to take the action in question.

(2) A direction may include such supplementary or incidental requirements as the Department thinks necessary or expedient.

(3) A direction under this Article is enforceable on the application of the Department by injunction.

**F4** prosp. subst. by 2005 NI 17

### *O#ences*

### **False and misleading statements**

**43.**—(1) A person commits an o#ence 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 o#ence 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 o#ence 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 o#ence 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<sup>F5</sup> 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.

F5 1954 c. 33 (N.I.)

#### Time limits for prosecution of offences

45.—(1) Notwithstanding anything in Article 19(1)(a) of the Magistrates' Courts (Northern Ireland) Order 1981<sup>F6</sup>, 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.

F6 1981 NI 26

*Status: Point in time view as at 01/01/2006.*

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## 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<sup>F7</sup> and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981<sup>F8</sup> (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.

**F7** 1945 c. 15 (N.I.)

**F8** 1981 NI 26

### *Supplementary provisions*

#### **Fees**

47.—(1) An applicant for a recognition order under this Part shall pay such fee in respect of his application as may be prescribed; and no application shall be regarded as duly made unless this paragraph is complied with.

(2) Every recognised supervisory or qualifying body shall pay such periodical fees to the Department as may be prescribed.

(3) In this Article “prescribed” means prescribed by regulations made by the Department.

(4) Regulations under this Article shall be subject to negative resolution.

(5) Fees received by the Department by virtue of this Part shall be paid into the Consolidated Fund.

#### **Delegation of functions of Department**

48.—<sup>F9</sup>(1) The Department may by order (a “delegation order”) establish a body corporate to exercise its functions under this Part.

(2) A delegation order has the effect of transferring to the body<sup>F9</sup> established by it, subject to such exceptions and reservations as may be specified in the order, all the functions of the Department under this Part except—

*Sub-para. (a) rep. by 2004 c. 27*

(b) the Department's functions in relation to the body itself;

and the order may also confer on the body such other functions supplementary or incidental to those transferred as appear to the Department to be appropriate.

(3) Any transfer of the functions under the following provisions shall be subject to the reservation that they remain exercisable concurrently by the Department—

(a) Article 40 (power to call for information), and

(b) Article 42 (directions to comply with international obligations);  
and any transfer of the function of refusing to approve an overseas qualification, or withdrawing such approval, on the grounds referred to in Article 36(3) (lack of reciprocity) shall be subject to the reservation that the function is exercisable only with the consent of the Department.

(4) A delegation order may be amended or, if it appears to the Department that it is no longer in the public interest that the order should remain in force, revoked by a further order under this Article.

(5) Where functions are transferred or resumed, the Department may by order confer or, as the case may be, take away such other functions supplementary or incidental to those transferred or resumed as appear to it to be appropriate.

<sup>F9</sup>(6) The provisions of Schedule 13 have effect with respect to the status, constitution and proceedings of a body established by a delegation order, the exercise by it of certain functions transferred to it and other supplementary matters.

(7) An order which has the effect of transferring or resuming any functions shall not be made unless a draft of it has been laid before and approved by a resolution of the Assembly; and any other description of order shall be subject to negative resolution.

**F9** prosp. subst. by [2005 NI 17](#)

**F10**

**F10** prosp. insertion by [2005 NI 17](#)

*Art. 49 rep. by 2004 c. 27*

### Exemption from liability for damages

**50.**—(1) Neither a recognised supervisory body, nor any of its officers or employees or members of its governing body, shall be liable in damages for anything done or omitted in the discharge or purported discharge of functions to which this paragraph applies, unless the act or omission is shown to have been in bad faith.

(2) Paragraph (1) applies to the functions of the body so far as relating to, or to matters arising out of—

- (a) such rules, practices, powers and arrangements of the body to which the requirements of Part II of Schedule 11 apply, or
- (b) the obligations with which paragraph 16 of that Schedule requires the body to comply,
- (c) any guidance issued by the body, or
- (d) the obligations to which the body is subject by virtue of this Part.

<sup>F11</sup>(3) Neither a body established by a delegation order, nor any of its members, officers or employees, shall be liable in damages for anything done or omitted in the discharge or purported discharge of the functions exercisable by virtue of an order under Article 48, unless the act or omission is shown to have been in bad faith.

**F11** prosp. rep. by [2005 NI 17](#)

### Service of notices

**51.**—(1) This Article has effect in relation to any notice, direction or other document required or authorised by or under this Part to be given to or served on any person other than the Department.

*Status: Point in time view as at 01/01/2006.*

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- (2) Any such document may be given to or served on the person in question—
- (a) by delivering it to him,
  - (b) by leaving it at his proper address, or
  - (c) by sending it by post to him at that address.
- (3) Any such document may—
- (a) in the case of a body corporate, be given to or served on the secretary or clerk of that body;
  - (b) in the case of a partnership, be given to or served on any partner;
  - (c) in the case of an unincorporated association other than a partnership, be given to or served on any member of the governing body of the association.
- (4) For the purposes of this Article, section 24(1) of the Interpretation Act (Northern Ireland) 1954<sup>F12</sup> applies with the omission of the word “registering” and the substitution of the words “proper address” for the words “usual or last known place of abode or business”.
- (5) For the purposes of this Article and section 24(1) of the Interpretation Act (Northern Ireland) 1954 (service of documents by post) in its application to this Article, the proper address of any person is his last known address (whether of his residence or of a place where he carries on business or is employed) and also—
- (a) in the case of a person who is eligible under the rules of a recognised supervisory body for appointment as company auditor and who does not have a place of business in the United Kingdom, the address of that body;
  - (b) in the case of a body corporate, its secretary or its clerk, the address of its registered or principal office in the United Kingdom;
  - (c) in the case of an unincorporated association (other than a partnership) or a member of its governing body, its principal office in the United Kingdom.

**F12** 1954 c. 33 (N.I.)

### **Power to make consequential amendments**

**52.**—(1) The Department may by regulations make such amendments of statutory provisions as appear to it to be necessary or expedient in consequence of the provisions of this Part having effect in place of Article 397 of the 1986 Order.

(2) That power extends to making such amendments as appear to the Department necessary or expedient of—

- (a) statutory provisions referring by name to the bodies of accountants recognised for the purposes of Article 397(1)(a) of the 1986 Order, and
- (b) statutory provisions making with respect to other statutory auditors provision as to the matters dealt with in relation to company auditors by Article 397 of the 1986 Order.

(3) The provision which may be made with respect to other statutory auditors includes provision as to—

- (a) eligibility for the appointment,
- (b) the effect of appointing a partnership which is not a legal person and the manner of exercise of the auditor's rights in such a case, and
- (c) ineligibility on the ground of lack of independence or any other ground.

(4) The regulations may contain such supplementary, incidental and transitional provision as appears to the Department to be necessary or expedient.

(5) The Department shall not make regulations under this Article with respect to any statutory auditors without the consent of—

- (a) the Department responsible for their appointment or responsible for the body or person by, or in relation to whom, they are appointed, or
- (b) if there is no such Department, the person by whom they are appointed.

(6) In this Article a “statutory auditor” means a person appointed auditor in pursuance of any statutory provision authorising or requiring the appointment of an auditor or auditors.

(7) Regulations under this Article shall be subject to negative resolution.

### Power to make provision in consequence of changes affecting accountancy bodies

**53.**—(1) The Department may by regulations make such amendments of statutory provisions as appear to it to be necessary or expedient in consequence of any change of name, merger or transfer of engagements affecting—

- (a) a recognised supervisory or qualifying body under this Part, or
- (b) a body of accountants referred to in, or approved, authorised or otherwise recognised for the purposes of, any other statutory provision.

(2) Regulations under this Article shall be subject to negative resolution.

### Meaning of “associate”

**54.**—(1) In this Part “associate”, in relation to a person, shall be construed as follows.

(2) In relation to an individual “associate” means—

- (a) that individual's spouse<sup>F13</sup> or civil partner] or minor child or stepchild,
- (b) any body corporate of which that individual is a director, and
- (c) any employee or partner of that individual.

(3) In relation to a body corporate “associate” means—

- (a) any body corporate of which that body is a director,
- (b) any body corporate in the same group as that body, and
- (c) any employee or partner of that body or of any body corporate in the same group.

(4) In relation to a Scottish firm, or a partnership constituted under the law of any other country or territory in which a partnership is a legal person, “associate” means—

- (a) any body corporate of which the firm is a director,
- (b) any employee of or partner in the firm, and
- (c) any person who is an associate of a partner in the firm.

(5) In relation to a partnership constituted under the law of England and Wales or Northern Ireland, or the law of any other country or territory in which a partnership is not a legal person, “associate” means any person who is an associate of any of the partners.

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### Minor definitions

**55.**—(1) In this Part—

“address” means—

*Status: Point in time view as at 01/01/2006.*

*Changes to legislation: There are currently no known outstanding effects for the The Companies (Northern Ireland) Order 1990 (repealed), PART III. (See end of Document for details)*

- (a) in relation to an individual, his usual residential or business address, and  
 (b) in relation to a firm, its registered or principal office in Northern Ireland;

“company” means any company or other body to which Article 392 of the 1986 Order (duty to appoint auditors) applies;

“director”, in relation to a body corporate, includes any person occupying in relation to it the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in a professional capacity) the directors of the body are accustomed to act;

“firm” means a body corporate or a partnership;

“group”, in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company;

“holding company” and “subsidiary” have the meaning given by Article 4 of the 1986 Order;

“parent undertaking” and “subsidiary undertaking” have the same meaning as in Part VIII of the 1986 Order.

(2) For the purposes of this Part a body shall be regarded as “established in the United Kingdom” if and only if—

- (a) it is incorporated or formed under the law of the United Kingdom or a part of the United Kingdom, or  
 (b) its central management and control is exercised in the United Kingdom;

and any reference to a qualification “obtained in the United Kingdom” is to a qualification obtained from such a body.

### **Index of defined expressions**

**56.** The following Table shows provisions defining or otherwise explaining expressions used in this Part (other than provisions defining or explaining an expression used only in the same Article)—

address	Article 55(1)
appropriate qualification	Article 34
associate	Article 54
company	Article 55(1)
company auditor, company audit and company audit work	Article 27(2)
delegation order	Article 48
director (of a body corporate)	Article 55(1)
F14	F14
...	...
established in the United Kingdom	Article 55(2)
firm	Article 55(1)
group (in relation to a body corporate)	Article 55(1)
guidance	

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—of a qualifying body	Article 35(3)
—of a supervisory body	Article 33(4)
holding company	Article 55(1)
member (of a supervisory body)	Article 33(2)
obtained in the United Kingdom	Article 55(2)
parent undertaking	Article 55(1)
purposes of this Part	Article 27(1)
qualifying body	Article 35(1)
recognised	
—in relation to a professional qualification	Article 35(4) and Schedule 12
—in relation to a qualifying body	paragraph 2(1) of Schedule 12
—in relation to a supervisory body	Article 33(5) and Schedule 11
rules	
—of a qualifying body	Article 35(2)
—of a supervisory body	Article 33(3)
subsidiary and subsidiary undertaking	Article 55(1)
supervisory body	Article 33(1)

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*Article 57—Repeals*

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