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STATUTORY INSTRUMENTS

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**1994 No. 429**

**The Health and Personal Social  
Services (Northern Ireland) Order 1994**

**Audit**

5. For Article 92 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>F1</sup> there shall be substituted the following Articles—

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

92. 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).

**Powers and duties of auditor in auditing accounts**

92A.—(1) This Article applies to an auditor appointed by the Department in auditing accounts required to be audited under Article 90(2)(a) or (5)(a) or Article 91(1)(a).

(2) The auditor shall by examination of the accounts and otherwise satisfy himself—

- (a) that the accounts are in the form directed by the Department and comply with all requirements imposed by or under any statutory provision;
- (b) that proper practices have been observed in the compilation of the accounts; and
- (c) that the body whose accounts are being audited has made proper arrangements for securing economy, efficiency and effectiveness in its use of resources.

(3) The auditor shall comply with any directions under Article 92.

(4) The auditor shall consider 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 that it may be considered by the body whose accounts are being audited and brought to the attention of the Department, and shall consider 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.

(5) If the auditor has reason to believe that the body whose accounts are being audited, or any officer of that body—

- (a) is about to make, or has made, a decision which involves or would involve the incurring of expenditure which is unlawful; or
- (b) is about to take, or has taken, a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency,

he shall refer the matter forthwith to the Department.

(6) The auditor shall be entitled—

- (a) to require access at all reasonable times to all such documents relating to the body whose accounts are being audited as appear to him necessary for the purposes of the audit;

- (b) to require from any person holding or accountable for any such document such information and explanation as he thinks necessary for the purposes of the audit;
- (c) without prejudice to sub-paragraph (b), to require any officer or member of a body whose accounts are being audited to give him such information or explanation as he thinks necessary for the purposes of the audit;
- (d) to require any such person as is mentioned in sub-paragraph (b) or (c) to attend before him in person to give any such information or explanation as is so mentioned.

(7) In the case of a recognised fund-holding practice the references in paragraph (6) to documents include references to documents relating to all the accounts and records of the members of the practice, whether or not relating to the allotted sum; and in this paragraph “allotted sum” and “recognised fund-holding practice” have the same meaning as in Article 18 of the 1991 Order.

(8) Without prejudice to paragraph (6), a body whose accounts are being audited shall provide the auditor with every facility and all information which he may reasonably require for the purposes of the audit.

(9) Any person who without reasonable excuse fails to comply with any requirement of the auditor under paragraph (6) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and if the failure continues after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which the failure continues.

### **Studies for improving economy, etc. in services**

**92B.**—(1) The Department may appoint auditors to undertake comparative or other studies to promote economy, efficiency and effectiveness in the provision of services by a body to which this Article applies.

- (2) The Department shall—
  - (a) consult with the Comptroller and Auditor General for Northern Ireland on the nature and scope of studies to be undertaken under this Article; and
  - (b) on request, furnish to the Comptroller and Auditor General for Northern Ireland all material relevant to any studies undertaken under this Article.
- (3) This Article applies to—
  - (a) Health and Social Services Boards;
  - (b) the Agency;
  - (c) special agencies;
  - (d) [<sup>F2</sup>HSC trusts];
  - (e) fund-holding practices; and
  - (f) the trustees for an [<sup>F3</sup>HSC trust] appointed in pursuance of Article 16 of the 1991 Order.

(4) Paragraphs (5) to (8) apply to an auditor appointed by the Department in undertaking any studies under this Article.

- (5) The auditor shall be entitled—
  - (a) to require access at all reasonable times to all such documents relating to a body to which this Article applies as appear to him necessary for the purposes of the studies;

- (b) to require from any person holding or accountable for any such document such information and explanation as he thinks necessary for the purposes of the studies;
- (c) without prejudice to sub-paragraph (b), to require any officer or member of a body to which this Article applies to give him such information or explanation as he thinks necessary for the purposes of the studies;
- (d) to require any such person as is mentioned in sub-paragraph (b) or (c) to attend before him in person to give any such information or explanation as is so mentioned.

(6) In the case of a recognised fund-holding practice the references in paragraph (5) to documents include references to documents relating to all the accounts and records of the members of the practice, whether or not relating to the allotted sum; and in this paragraph “allotted sum” and “recognised fund-holding practice” have the same meaning as in Article 18 of the 1991 Order.

(7) Without prejudice to paragraph (5), a body to which this Article applies shall provide the auditor with every facility and all information which he may reasonably require for the purposes of the studies.

(8) Any person who without reasonable excuse fails to comply with any requirement of the auditor under paragraph (5) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale and if the failure continues after the conviction he shall be guilty of a further offence and liable on summary conviction to a fine not exceeding one-tenth of level 3 on the standard scale for each day on which the failure continues.”.

<b>F1</b>	1972 NI 14
<b>F2</b>	Words in Order substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(d)</a> (with Sch. 6 para. 1(3)); S.R. 2009/114, <a href="#">art. 2</a>
<b>F3</b>	Words in Order substituted (1.4.2009) by <a href="#">Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), Sch. 6 para. 1(1)(d)</a> (with Sch. 6 para. 1(3)); S.R. 2009/114, <a href="#">art. 2</a>

**Changes to legislation:**

There are currently no known outstanding effects for the The Health and Personal Social Services (Northern Ireland) Order 1994, Section 5.