
STATUTORY INSTRUMENTS

1986 No. 1032

The Companies (Northern Ireland) Order 1986 (revoked)

PART XV

INVESTIGATION OF COMPANIES AND THEIR AFFAIRS; REQUISITION OF DOCUMENTS

Other powers of investigation available to the Department

F1 Order repealed (prosp.) by [Companies Act 2006 \(c. 46\)](#), ss. 1284(2), 1295, 1300(2), [Sch. 16](#) and the repeal being partly in force, as to which see individual Articles (with savings (with adaptations) by Companies Act 2006 (Commencement No. 6, Saving and Commencement Nos. 3 and 5 (Amendment)) Order 2008 (S.I. 2008/674), arts. 2(3), {4}, Sch. 2) and subject to amendments (6.4.2008) by [Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), arts. 2(2), 3(1)(b)(2), [Sch. 1 paras. 135, 147, 148](#) {Sch. 2 Note 1} (with arts. 6, 11, 12) and subject to amendments (6.4.2008) by [S.R. 2008/133](#), {regs. 2, 3}

Power to investigate company ownership

435.—(1) Where it appears to the Department that there is good reason to do so, the Department may appoint one or more competent inspectors to investigate and report on the membership of any company, and otherwise with respect to the company, for the purpose of determining the true persons who are or have been financially interested in the success or failure (real or apparent) of the company or able to control or materially to influence its policy.

(2) The appointment of inspectors under this Article may define the scope of their investigation (whether as respects the matters or the period to which it is to extend or otherwise) and in particular may limit the investigation to matters connected with particular shares or debentures.

[^{F1}(3) If an application for investigation under this Article with respect to particular shares or debentures of a company is made to the Department by members of the company, and the number of applicants or the amount of shares held by them is not less than that required for an application for the appointment of inspectors under Article 424(2)(a) or (b), then, subject to the following provisions, the Department shall appoint inspectors to conduct the investigation applied for.

(3A) The Department shall not appoint inspectors if it is satisfied that the application is vexatious; and where inspectors are appointed their terms of appointment shall exclude any matter in so far as the Department is satisfied that it is unreasonable for it to be investigated.

(3B) The Department may, before appointing inspectors, require the applicant or applicants to give security, to an amount not exceeding £5,000, or such other sum as it may by order subject to negative resolution specify, for payment of the costs of the investigation.

(3C) If on an application under paragraph (3) it appears to the Department that the powers conferred by Article 437 are sufficient for the purposes of investigating the matters which inspectors would be appointed to investigate, it may instead conduct the investigation under that Article.]

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(4) Subject to the terms of their appointment, the inspectors' powers extend to the investigation of any circumstances suggesting the existence of an arrangement or understanding which, though not legally binding, is or was observed or likely to be observed in practice and which is relevant to the purposes of the investigation.

F1 1990 NI 10

Provisions applicable on investigation under Article 435

436.—(1) For the purposes of an investigation under Article 435, Articles 426(1), 427, 429 and 430 apply with the necessary modifications of references to the affairs of the company or to those of any other body corporate, subject however to paragraphs (2)^[F2] and (3)].

(2) Those Articles apply to—

- (a) all persons who are or have been, or whom the inspector has reasonable cause to believe to be or have been, financially interested in the success or failure or the apparent success or failure of the company or any other body corporate whose membership is investigated with that of the company, or able to control or materially influence its policy (including persons concerned only on behalf of others), and
- (b) any other person whom the inspector has reasonable cause to believe possesses information relevant to the investigation.

as they apply in relation to officers and agents of the company or other body corporate (as the case may be).

(3) If the Department is of opinion that there is good reason for not divulging any part of a report made by virtue of Article 435 and this Article, the Department may under Article 430 disclose the report with the omission of that part; and the Department may cause to be kept by the registrar a copy of the report with that part omitted or, in the case of any other such report, a copy of the whole report.

F2 1989 NI 18

Power to obtain information as to those interested in shares, etc.

437.—(1) If it appears to the Department that there is good reason to investigate the ownership of any shares in or debentures of a company and that it is unnecessary to appoint inspectors for the purpose, the Department may require any person whom the Department has reasonable cause to believe to have or to be able to obtain any information as to the present and past interests in those shares or debentures and the names and addresses of the persons interested and of any persons who act or have acted on their behalf in relation to the shares or debentures to give any such information to the Department.

(2) For this purpose a person is deemed to have an interest in shares or debentures if he has any right to acquire or dispose of them or of any interest in them, or to vote in respect of them, or if his consent is necessary for the exercise of any of the rights of other persons interested in them, or if other persons interested in them can be required, or are accustomed, to exercise their rights in accordance with his instructions.

(3) A person who fails to give information required of him under this Article, or who in giving such information makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, is liable to imprisonment or a fine, or both.

Power to impose restrictions on shares and debentures

438.—(1) If in connection with an investigation under either Article 435 or 437 it appears to the Department that there is difficulty in finding out the relevant facts about any shares (whether issued or to be issued), the Department may by order direct that the shares shall until further order be subject to the restrictions imposed by Part XVI.

[^{F3}(1A) If the Department is satisfied that an order under paragraph (1) may unfairly affect the rights of third parties in respect of shares then the Department, for the purpose of protecting such rights and subject to such terms as it thinks fit, may direct that such acts by such persons and for such purposes as may be set out in the order, shall not constitute a breach of the restrictions of Part XVI.]

(2) This Article, and Part XVI in its application to orders under it, apply in relation to debentures as in relation to shares [^{F3} save that paragraph (1A) shall not apply.]

F3 SR 1992/257

Investigation of share dealings

439.—(1) If it appears to the Department that there are circumstances suggesting that contraventions may have occurred, in relation to a company's shares or debentures, of Article 331 or 332 (taken with Schedule 13), or of Article 336(3) to (5) (restrictions on share dealings by directors and their families; obligation of director to disclose shareholding in his own company), the Department may appoint one or more competent inspectors to carry out such investigations as are requisite to establish whether or not such contraventions have occurred and to report the result of their investigations to the Department.

(2) The appointment of inspectors under this Article may limit the period to which their investigation is to extend or confine it to shares or debentures of a particular class, or both.

[^{F4}(3) Articles 427 to 429 apply for the purposes of an investigation under this Article to the following persons as they apply to officers of the company or of the other body corporate—

- (a) an authorised person;
- (b) a relevant professional;
- (c) a person not falling within sub-paragraph (a) or (b) who may carry on a regulated activity without contravening the prohibition imposed by section 19 of the Financial Services and Markets Act 2000; and
- (d) in relation to an authorised person, to a relevant professional or to a person falling within sub-paragraph (c)—
 - (i) if it is a body corporate, any person who is or has been an officer of it,
 - (ii) if it is a partnership, any person who is or has been a partner in it,
 - (iii) if it is an unincorporated association, any person who is or has been a member of its governing body or an officer of it.

(3A) In paragraph (3)—

“authorised person” has the meaning given in section 31(2) of the Financial Services and Markets Act 2000;

“relevant professional” means a member of a profession if a body has been designated under section 326(1) of that Act in relation to that profession, and, in relation to such a profession, “member” has the meaning given in section 325(2) of that Act.]

(4) Articles 427 to 429 apply under paragraph (3)—

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- [^{F5}(a) to an individual who is an authorised person within the meaning of the Financial Services Act 1986;
- (b) to any individual who holds a permission granted under paragraph 23 of Schedule 1 to that Act;
- (c) to an officer (whether past or present) of a body corporate which is such an authorised person or holds such a permission;
- (d) to any partner (whether past or present) in a partnership which is such an authorised person or holds such a permission;
- (e) to any member of the governing body or officer (in either case whether past or present) of an unincorporated association which is such an authorised person or holds such a permission.]

as they apply to officers of the company or of the other body corporate.

Paras. (5), (6) rep. by 1986 c. 60

F4 SI 2001/3649

F5 [1986 c. 60](#)

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