



# Companies Act 1985

## 1985 CHAPTER 6

### PART VII

#### ACCOUNTS AND AUDIT

#### CHAPTER I

##### PROVISIONS APPLYING TO COMPANIES GENERALLY

*[<sup>F1</sup> Publication of accounts and reports]*

#### Textual Amendments

- F1** New ss. 238–240 inserted (subject to the saving and transitional provisions in [S.I. 1990/355, arts. 6–9, Sch. 2](#), by [Companies Act 1989 \(c. 40, SIF 27\), ss. 1, 10, 213\(2\)](#) as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)

#### **238 Persons entitled to receive copies of accounts and reports.**

- (1) [<sup>F2</sup>A copy of each of the documents mentioned in subsection (1A)] shall be sent to—
- (a) every member of the company,
  - (b) every holder of the company's debentures, and
  - (c) every person who is entitled to receive notice of general meetings,
- not less than 21 days before the date of the meeting at which copies of those documents are to be laid in accordance with section 241.

[<sup>F3</sup>(1A) Those documents are—

- (a) the company's annual accounts for the financial year,
- (b) the directors' report for that financial year,
- (ba) <sup>F4</sup>.....

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- (c) (in the case of a quoted company) the directors' remuneration report for that financial year, and
- [<sup>F5</sup>(d) the auditors' report on those accounts and that directors' report and (in the case of a quoted company) on <sup>F6</sup> . . . the auditable part of that directors' remuneration report.]]
- (2) Copies need not be sent—
- (a) to a person who is not entitled to receive notices of general meetings and of whose address the company is unaware, or
- (b) to more than one of the joint holders of shares or debentures none of whom is entitled to receive such notices, or
- (c) in the case of joint holders of shares or debentures some of whom are, and some not, entitled to receive such notices, to those who are not so entitled.
- (3) In the case of a company not having a share capital, copies need not be sent to anyone who is not entitled to receive notices of general meetings of the company.
- (4) If copies are sent less than 21 days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the meeting.
- (4A) <sup>F7</sup> . . . . .
- (4B) <sup>F7</sup> . . . . .
- (4C) <sup>F7</sup> . . . . .
- (4D) <sup>F7</sup> . . . . .
- (4E) <sup>F7</sup> . . . . .
- (5) If default is made in complying with this section, the company and every officer of it who is in default is guilty of an offence and liable to a fine.
- (6) Where copies are sent out under this section over a period of days, references elsewhere in this Act to the day on which copies are sent out shall be construed as references to the last day of that period.

#### Textual Amendments

- F2** Words in s. 238(1) substituted (1.8.2002) by [The Directors' Remuneration Report Regulations 2002 \(S.I. 2002/1986\)](#), **reg. 10(3)**
- F3** S. 238(1A) inserted (1.8.2002) by [The Directors' Remuneration Report Regulations 2002 \(S.I. 2002/1986\)](#), **reg. 10(4)**
- F4** S. 238(1A)(ba) omitted (12.1.2006) by virtue of [The Companies Act 1985 \(Operating and Financial Review\) \(Repeal\) Regulations 2005 \(S.I. 2005/3442\)](#), **reg. 2(2)(a)** {Sch. 1 para. 5(a)}
- F5** S. 238(1A)(d) substituted (22.3.2005) by [The Companies Act 1985 \(Operating and Financial Review and Directors' Report etc.\) Regulations 2005 \(S.I. 2005/1011\)](#), reg. 19, **Sch. para. 2(b)**
- F6** Words in s. 238(1A)(d) omitted (12.1.2006) by virtue of [The Companies Act 1985 \(Operating and Financial Review\) \(Repeal\) Regulations 2005 \(S.I. 2005/3442\)](#), reg. 2(2)(a), **Sch. 1 para. 5(b)**
- F7** S. 238(4A)-(4E) repealed (20.1.2007) by [Companies Act 2006 \(c. 46\)](#), ss. 1295, 1300, **Sch. 16**; S.I. 2006/3428, **art. 7(b)**, Sch. 3 Pt. 1 (with arts. 6, 8, Sch. 5 (as amended by S.I. 2007/3495, art. 11, Sch. 5))

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

- C1 S. 238 amended by by S.I. 1990/2570, **regs. 8(2)(b)**, 9(2)(b)
- C2 S. 238 applied (1.7.2005) by The Community Interest Company Regulations 2005 (S.I. 2005/1788), **reg. 29**
- C3 S. 238(2)(3) applied by S.I. 1990/2570, **reg. 10(3)**
- C4 S. 238(5) applied with modifications by S.I. 1990/2570, **reg. 10(4)**

VALID FROM 01/10/2007

**[<sup>F8</sup>238A Time allowed for sending out copies of accounts and reports**

- (1) The time allowed for sending out copies of the company's annual accounts and reports is as follows.
- (2) A private company must comply with section 238(1) not later than—
  - (a) the end of the period for delivering accounts and reports (see section 244), or
  - (b) if earlier, the date on which it actually delivers its accounts and reports under section 242.
- (3) A public company must comply with section 238(1) not less than 21 days before the date of the meeting at which copies of the documents are to be laid in accordance with section 241.
- (4) If in the case of a public company copies are sent out later than is required by subsection (3), they shall, despite that, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the meeting.]

**Textual Amendments**

- F8** S. 238A inserted (1.10.2007 with effect as mentioned in Sch. 4 para. 3(8) of the amending S.I.) by The Companies Act 2006 (Commencement No. 3, Consequential Amendments, Transitional Provisions and Savings) Order 2007 (S.I. 2007/2194), art. 10(1), **Sch. 4 para. 3(3)** (with art. 12)

**[<sup>F9</sup>239 Rights to demand copies of accounts and reports.**

- (1) Any member of a company and any holder of a company's debentures is entitled to be furnished, on demand and without charge, [<sup>F10</sup> with a copy of—
  - (a) the company's last annual accounts,
  - (b) the last directors' report,
  - (ba) <sup>F11</sup> .....
  - (c) (in the case of a quoted company) the last directors' remuneration report, and
  - [<sup>F12</sup>(d) the auditors' report on those accounts and that directors' report and (in the case of a quoted company) on <sup>F13</sup> . . . the auditable part of that directors' remuneration report.]]
- (2) The entitlement under this section is to a single copy of those documents, but that is in addition to any copy to which a person may be entitled under section 238.
- (2A) <sup>F14</sup> .....

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(2B) <sup>F14</sup> .....

- (3) If a demand under this section is not complied with within seven days, the company and every officer of it who is in default is guilty of an offence and liable to a fine and, for continued contravention, to a daily default fine.
- (4) If in proceedings for such an offence the issue arises whether a person had already been furnished with a copy of the relevant document under this section, it is for the defendant to prove that he had.]

#### Textual Amendments

- F9** New ss. 238–240 inserted (subject to the saving and transitional provisions in S.I. 1990/355, arts. 6–9, **Sch. 2**, by Companies Act 1989 (c. 40, SIF 27), **ss. 1, 10, 213(2)** as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)
- F10** Words in s. 239(1) substituted (1.8.2002) by The Directors' Remuneration Report Regulations 2002 (S.I. 2002/1986), **reg. 10(6)**
- F11** S. 239(1)(ba) omitted (12.1.2006) by virtue of The Companies Act 1985 (Operating and Financial Review) (Repeal) Regulations 2005 (S.I. 2005/3442), reg. 2(2)(a), **Sch. 1 para. 6(a)**
- F12** S. 239(1)(d) substituted (22.3.2005) by The Companies Act 1985 (Operating and Financial Review and Directors' Report etc.) Regulations 2005 (S.I. 2005/1011), reg. 19, **Sch. para. 3(b)**
- F13** Words in s. 239(1)(d) omitted (12.1.2006) by The Companies Act 1985 (Operating and Financial Review) (Repeal) Regulations 2005 (S.I. 2005/3442), reg. 2(2)(a), **Sch. 1 para. 6(b)**
- F14** S. 239(2A)(2B) repealed (20.1.2007) by Companies Act 2006 (c. 46), ss. 1295, 1300, **Sch. 16**; S.I. 2006/3428, **art. 7(b)**, Sch. 3 Pt. 1 (with arts. 6, 8, Sch. 5 (as amended by S.I. 2007/3495, art. 11, Sch. 5))

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

- C5** S. 239 amended by S.I. 1990/2570, **regs. 8(2)(a), 9(2)(a)**
- C6** S. 239 applied (1.7.2005) by The Community Interest Company Regulations 2005 (S.I. 2005/1788), **reg. 29**

#### [<sup>F15</sup>240 Requirements in connection with publication of accounts.

- (1) If a company publishes any of its statutory accounts, they must be accompanied by the relevant auditors' report under section 235 [<sup>F16</sup>or, as the case may be, the relevant report made for the purposes of section 249A(2)].
- (2) A company which is required to prepare group accounts for a financial year shall not publish its statutory individual accounts for that year without also publishing with them its statutory group accounts.
- (3) If a company publishes non-statutory accounts, it shall publish with them a statement indicating—
  - (a) that they are not the company's statutory accounts,
  - (b) whether statutory accounts dealing with any financial year with which the non-statutory accounts purport to deal have been delivered to the registrar,
  - (c) whether the company's auditors have made a report under section 235 on the statutory accounts for any such financial year [<sup>F17</sup>and, if no such report has been made, whether the company's reporting accountant has made a report for the purposes of section 249A(2) on the statutory accounts for any such financial year], <sup>F18</sup> . . .

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- [<sup>F19</sup>(d) whether any such auditors' report—
- (i) was qualified or unqualified, or included a reference to any matters to which the auditors drew attention by way of emphasis without qualifying the report, or
  - (ii) contained a statement under section 237(2) or (3) (accounting records or returns inadequate, accounts not agreeing with records and returns or failure to obtain necessary information and explanations); and
- (e) whether any report made for the purposes of section 249A(2) was qualified;] and it shall not publish with the non-statutory accounts any auditors' report under section 235 [<sup>F20</sup>or any report made for the purposes of section 249A(2)].
- (4) For the purposes of this section a company shall be regarded as publishing a document if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.
- (5) References in this section to a company's statutory accounts are to its individual or group accounts for a financial year as required to be delivered to the registrar under section 242; and references to the publication by a company of "non-statutory accounts" are to the publication of—
- (a) any balance sheet or profit and loss account relating to, or purporting to deal with, a financial year of the company, or
  - (b) an account in any form purporting to be a balance sheet or profit and loss account for the group consisting of the company and its subsidiary undertakings relating to, or purporting to deal with, a financial year of the company,
- otherwise than as part of the company's statutory accounts.
- (6) A company which contravenes any provision of this section, and any officer of it who is in default, is guilty of an offence and liable to a fine.]

#### Textual Amendments

- F15** New ss. 238–240 inserted (subject to the saving and transitional provisions in S.I. 1990/355, arts. 6–9, Sch. 2, by Companies Act 1989 (c. 40, SIF 27), ss. 1, 10, 213(2) as part of the text inserted in place of ss. 221–262 (as mentioned in s. 1(a) of the 1989 Act)
- F16** Words in s. 240(1) added (11.8.1994) by S.I. 1994/1935, reg. 4, Sch. 1 Pt. I para.1(2)
- F17** Words in s. 240(3)(c) inserted (11.8.1994) by S.I. 1994/1935, reg. 4, Sch. 1 Pt. I para. 1(3)(a)
- F18** Word in s. 240(3)(c) omitted (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by virtue of The Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947), reg. 8(a)
- F19** S. 240(3)(d)(e) substituted for s. 240(3)(d) (12.11.2004 with effect as mentioned in reg. 1(2) of the amending S.I.) by The Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947), reg. 8(b)
- F20** Words in s. 240(3) added (11.8.1994) by S.I. 1994/1935, reg. 4, Sch. 1 Pt. I para. 1(3)(c)

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

- C7** S. 240 applied (with modifications) (31.12.2004) by The Insurance Accounts Directive (Lloyd's Syndicate and Aggregate Accounts) Regulations 2004 (S.I. 2004/3219), reg. 3(4)(a), Sch.
- C8** S. 240(5) amended by S.I. 1990/2570, reg. 8(2)(a)

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