



# Companies (Audit, Investigations and Community Enterprise) Act 2004

## 2004 CHAPTER 27

### PART 1

#### AUDITORS, ACCOUNTS, DIRECTORS' LIABILITIES AND INVESTIGATIONS

### CHAPTER 1

#### AUDITORS

##### *Recognised supervisory bodies*

#### <sup>F1</sup> **Additional requirements for recognition of supervisory bodies**

.....

##### **Textual Amendments**

- F1** Ss. 1-6 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pt. 1](#) (with arts. 7, 12)

#### <sup>F2</sup> **Arrangements to which additional requirements for recognition relate**

.....

##### **Textual Amendments**

- F1** Ss. 1-6 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pt. 1](#) (with arts. 7, 12)

*Status: Point in time view as at 06/04/2008.*

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*Delegation of Secretary of State's functions in relation to auditors*

**F13 Delegation of functions by Secretary of State to new or existing body**

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**Textual Amendments**

**F1** Ss. 1-6 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), **Sch. 2 Pt. 1** (with arts. 7, 12)

**F14 Circumstances in which Secretary of State may delegate functions to existing body**

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**Textual Amendments**

**F1** Ss. 1-6 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), **Sch. 2 Pt. 1** (with arts. 7, 12)

**F15 Supplementary provisions about delegation orders**

.....

**Textual Amendments**

**F1** Ss. 1-6 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), **Sch. 2 Pt. 1** (with arts. 7, 12)

*Auditors' qualifications*

**F16 Approval of overseas qualifications for auditors**

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**Textual Amendments**

**F1** Ss. 1-6 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), **Sch. 2 Pt. 1** (with arts. 7, 12)

*Services provided by auditors*

**F27 Disclosure of services provided by auditors and related remuneration**

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**Textual Amendments**

**F2** Ss. 7-10 repealed (6.4.2008) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), Sch. 2 Pt. 1 (with arts. 7, 12)

**CHAPTER 2**

ACCOUNTS AND REPORTS

*Auditing of accounts*

**F2<sup>8</sup> Auditors' rights to information**

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**Textual Amendments**

**F2** Ss. 7-10 repealed (6.4.2008) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), Sch. 2 Pt. 1 (with arts. 7, 12)

**F2<sup>9</sup> Statement in directors' report as to disclosure of information to auditors**

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**Textual Amendments**

**F2** Ss. 7-10 repealed (6.4.2008) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), Sch. 2 Pt. 1 (with arts. 7, 12)

*Defective accounts*

**F2<sup>10</sup> Persons authorised to apply to court in connection with defective accounts**

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**Textual Amendments**

**F2** Ss. 7-10 repealed (6.4.2008) by Companies Act 2006 (c. 46), s. 1300(2), **Sch. 16**; S.I. 2007/3495, art. 8(a), Sch. 2 Pt. 1 (with arts. 7, 12)

**F3<sup>11</sup> Disclosure of tax information by Inland Revenue to facilitate application for declaration that accounts are defective**

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*Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Part 1. (See end of Document for details)*

#### Textual Amendments

- F3** S. 11(1)(2) repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pt. 1](#) (with arts. 7, 12)

### <sup>F4</sup>12 Power of person authorised to require documents, information and explanations

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#### Textual Amendments

- F4** S. 12 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pt. 1](#) (with arts. 7, 12)

#### *Directors' reports*

### <sup>F5</sup>13 Power to specify bodies who may issue reporting standards

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#### Textual Amendments

- F5** S. 13 repealed (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 16](#); S.I. 2007/3495, art. 8(a), [Sch. 2 Pt. 1](#) (with arts. 7, 12)

#### *Supervision of accounts and reports*

### 14 Supervision of periodic accounts and reports of issuers of listed securities

- (1) The Secretary of State may make an order appointing a body (“the prescribed body”) to exercise the functions mentioned in subsection (2).
- (2) The functions are—
  - (a) keeping under review periodic accounts and reports that are produced by issuers of [<sup>F6</sup>transferable] securities and are required to comply with any accounting requirements imposed by [<sup>F7</sup>Part 6] rules; and
  - (b) if the prescribed body thinks fit, informing the Financial Services Authority of any conclusions reached by the body in relation to any such accounts or report.
- (3) A body may be appointed under this section if it is a body corporate or an unincorporated association which appears to the Secretary of State—
  - (a) to have an interest in, and to have satisfactory procedures directed to, monitoring compliance by issuers of [<sup>F8</sup>transferable] securities with accounting requirements imposed by [<sup>F9</sup>Part 6] rules in relation to periodic accounts and reports produced by such issuers; and
  - (b) otherwise to be a fit and proper body to be appointed.
- (4) But where the order is to contain any requirements or other provisions specified under subsection (8), the Secretary of State may not appoint a body unless, in addition, it

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appears to him that the body would, if appointed, exercise its functions as a prescribed body in accordance with any such requirements or provisions.

(5) A body may be appointed either generally or in respect of any of the following, namely—

- (a) any particular class or classes of issuers,
- (b) any particular class or classes of periodic accounts or reports,

and different bodies may be appointed in respect of different classes within either or both of paragraphs (a) and (b).

(6) In relation to the appointment of a body in respect of any such class or classes, subsections (2) and (3) are to be read as referring to issuers, or (as the case may be) to periodic accounts or reports, of the class or classes concerned.

(7) Where—

- (a) a body is so appointed, but
- (b) the Financial Services Authority requests the body to exercise its functions under subsection (2) in relation to any particular issuer of [<sup>F10</sup>transferable] securities in relation to whom those functions would not otherwise be exercisable,

the body is to exercise those functions in relation to that issuer as well.

(8) An order under this section may contain such requirements or other provisions relating to the exercise of functions by the prescribed body as appear to the Secretary of State to be appropriate.

(9) If the prescribed body is an unincorporated association, any relevant proceedings may be brought by or against that body in the name of any body corporate whose constitution provides for the establishment of the body.

For this purpose “relevant proceedings” means proceedings brought in or in connection with the exercise of any function by the body as a prescribed body.

(10) Where an appointment is revoked, the revoking order may make such provision as the Secretary of State thinks fit with respect to pending proceedings.

(11) The power to make an order under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(12) In this section [<sup>F11</sup>and sections 15A to 15E below] —

[<sup>F12</sup>[<sup>F13</sup> “Part 6 rules” has] the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation of Part 6);

[<sup>F14</sup>“issuer” has the meaning given by section 102A(6) of that Act;]

“periodic” accounts and reports means accounts and reports which are required by [<sup>F15</sup>Part 6] rules to be produced periodically.

[<sup>F16</sup>“issuer” has the meaning given by section 102A(6) of that Act;]

#### Textual Amendments

**F6** Word in s. 14(2)(a) substituted (8.11.2006) by Companies Act 2006 (c. 46), s. 1300(1), Sch. 15 para. 14(2)(a)

**F7** Words in s. 14(2)(a) substituted (8.11.2006) by Companies Act 2006 (c. 46), s. 1300(1), Sch. 15 para. 14(2)(b)

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- F8** Word in s. 14(3)(a) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(3)(a)**
- F9** Words in s. 14(3)(a) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(3)(b)**
- F10** Word in s. 14(7)(b) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(4)**
- F11** Words in s. 14(12) inserted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 232(1)** (with arts. 6, 11, 12)
- F12** Words in s. 14(12) substituted (1.7.2005) by [The Prospectus Regulations 2005 \(S.I. 2005/1433\)](#), reg. 1(1), **Sch. 3 para. 5**
- F13** Words in s. 14(12) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(5)(a)**
- F14** Words in s. 14(12) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(5)(b)**
- F15** Word in s. 14(12) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(5)(c)**
- F16** Words in s. 14(12) added (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), s. 1300(1), **Sch. 15 para. 14(5)(d)**

#### Commencement Information

- I1** S. 14 in force at 1.1.2005 by [S.I. 2004/3322](#), art. 2(1), **Sch. 1**

#### [<sup>F17</sup>15 Application of sections 15A to 15E

- [<sup>F18</sup>(1) The provisions of sections 15A to 15E have effect in relation to bodies appointed under section 14 (supervision of accounts and reports of issuers of transferable securities).
- (2) In those sections—
- (a) “prescribed body” means a body appointed under that section; and
  - (b) references to the functions of a prescribed body are to its functions under that section.]]

#### Textual Amendments

- F17** Ss. 15-15E substituted for s. 15 (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 232(2)** (with arts. 6, 11, 12)
- F18** S. 15 repealed (N.I.) (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 2** (with arts. 6, 11, 12)

#### [<sup>F19</sup>15A. Disclosure of information by tax authorities

- (1) The Commissioners for Her Majesty’s Revenue and Customs may disclose information to a prescribed body for the purposes of its functions.
- (2) This section applies despite any statutory or other restriction on the disclosure of information.  
 Provided that, in the case of personal data within the meaning of the Data Protection Act 1998, information is not to be disclosed in contravention of that Act.
- (3) Information disclosed to a prescribed body under this section—
  - (a) may only be used for the purposes of its functions, and

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- (b) must not be further disclosed except to the person to whom the information relates.
- (4) A person who contravenes subsection (3) commits an offence unless—
  - (a) the person did not know, and had no reason to suspect, that the information had been disclosed under this section, or
  - (b) the person took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (5) A person guilty of an offence under subsection (4) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales or Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (ii) in Northern Ireland, to imprisonment for a term not exceeding three months, or to a fine not exceeding the statutory maximum (or both).
- (6) In subsection (5)(b)(i) as it applies in relation to England and Wales in the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, for “twelve months” substitute “six months”.
- (7) Sections 400, 401 and 403 of the Financial Services and Markets Act 2000 (supplementary provisions relating to offences) apply in relation to an offence under this section.

#### Textual Amendments

**F19** Ss. 15-15E substituted for s. 15 (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 232\(2\)](#) (with arts. 6, 11, 12)

### **15B. Power of prescribed body to require documents, information and explanations**

- (1) This section applies where it appears to a prescribed body that there is, or may be, a question whether the periodic accounts and reports produced by an issuer of transferable securities comply with any accounting requirements imposed by Part 6 rules.
- (2) The prescribed body may require any of the persons mentioned in subsection (3) to produce any document, or to provide any information or explanations, that the body may reasonably require for the purpose of its functions.
- (3) Those persons are—
  - (a) the issuer;
  - (b) any officer, employee, or auditor of the issuer;
  - (c) any persons who fell within paragraph (b) at a time to which the document or information required by the prescribed body relates.
- (4) If a person fails to comply with such a requirement, the prescribed body may apply to the court.

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- (5) If it appears to the court that the person has failed to comply with a requirement under subsection (2), it may order the person to take such steps as it directs for securing that the documents are produced or the information or explanations are provided.
- (6) A statement made by a person in response to a requirement under subsection (2) or an order under subsection (5) may not be used in evidence against him in any criminal proceedings.
- (7) Nothing in this section compels any person to disclose documents or information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.
- (8) In this section—
  - “the court” means the High Court or the Court of Session; and
  - “document” includes information recorded in any form.

#### Textual Amendments

**F19** Ss. 15-15E substituted for s. 15 (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 232\(2\)](#) (with arts. 6, 11, 12)

### 15C. Restrictions on disclosure of information obtained under compulsory powers

- (1) This section applies to information (in whatever form) obtained in pursuance of a requirement or order under section 15B (power of prescribed body to require documents etc) that relates to the private affairs of an individual or to any particular business.
- (2) No such information may, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.
- (3) This does not apply—
  - (a) to disclosure permitted by section 15D (permitted disclosure of information obtained under compulsory powers), or
  - (b) to the disclosure of information that is or has been available to the public from another source.
- (4) A person who discloses information in contravention of this section commits an offence, unless—
  - (a) the person did not know, and had no reason to suspect, that the information had been disclosed under section 15B, or
  - (b) the person took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (5) A person guilty of an offence under this section is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales or Scotland, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);



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- (ii) in Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).
- (6) In subsection (5)(b)(i) as it applies in relation to England and Wales in the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, for “twelve months” substitute “six months”.

#### Textual Amendments

**F19** Ss. 15-15E substituted for s. 15 (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 232\(2\)](#) (with arts. 6, 11, 12)

### 15D. Permitted disclosure of information obtained under compulsory powers

- (1) The prohibition in section 15C of the disclosure of information obtained in pursuance of a requirement or order under section 15B (power of prescribed body to require documents etc) that relates to the private affairs of an individual or to any particular business has effect subject to the following exceptions.
- (2) It does not apply to the disclosure of information for the purpose of facilitating the carrying out by the prescribed body of its functions.
- (3) It does not apply to disclosure to—
  - (a) the Secretary of State,
  - (b) the Department of Enterprise, Trade and Investment for Northern Ireland,
  - (c) the Treasury,
  - (d) the Bank of England,
  - (e) the Financial Services Authority, or
  - (f) the Commissioners for Her Majesty’s Revenue and Customs.
- (4) It does not apply to disclosure—
  - (a) for the purpose of assisting a body designated by an order under section 1252 of the Companies Act 2006 (delegation of functions of the Secretary of State) to exercise its functions under Part 42 of that Act (statutory auditors);
  - (b) with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by an accountant or auditor of his professional duties;
  - (c) for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any of their functions under any of the following—
    - (i) the Companies Acts (as defined in section 2 of the Companies Act 2006),
    - (ii) Part 5 of the Criminal Justice Act 1993 (insider dealing),
    - (iii) the Insolvency Act 1986 or the Insolvency (Northern Ireland) Order 1989,
    - (iv) the Company Directors Disqualification Act 1986 or the Company Directors Disqualification (Northern Ireland) Order 2002,
    - (v) the Financial Services and Markets Act 2000;
  - (d) for the purpose of enabling or assisting the Department of Enterprise, Trade and Investment for Northern Ireland to exercise any powers conferred on

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- it by the enactments relating to companies, directors' disqualification or insolvency;
- (e) for the purpose of enabling or assisting the Bank of England to exercise its functions;
  - (f) for the purpose of enabling or assisting the Commissioners for Her Majesty's Revenue and Customs to exercise their functions;
  - (g) for the purpose of enabling or assisting the Financial Services Authority to exercise its functions under any of the following—
    - (i) the legislation relating to friendly societies or to industrial and provident societies,
    - (ii) the Building Societies Act 1986,
    - (iii) Part 7 of the Companies Act 1989,
    - (iv) the Financial Services and Markets Act 2000; or
  - (h) in pursuance of any Community obligation.
- (5) It does not apply to disclosure to a body exercising functions of a public nature under legislation in any country or territory outside the United Kingdom that appear to the prescribed body to be similar to its functions for the purpose of enabling or assisting that body to exercise those functions.
- (6) In determining whether to disclose information to a body in accordance with subsection (5), the prescribed body must have regard to the following considerations—
- (a) whether the use which the other body is likely to make of the information is sufficiently important to justify making the disclosure;
  - (b) whether the other body has adequate arrangements to prevent the information from being used or further disclosed other than—
    - (i) for the purposes of carrying out the functions mentioned in that subsection, or
    - (ii) for other purposes substantially similar to those for which information disclosed to the prescribed body could be used or further disclosed.
- (7) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998.

#### Textual Amendments

**F19** Ss. 15-15E substituted for s. 15 (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 232\(2\)](#) (with arts. 6, 11, 12)

### 15E. Power to amend categories of permitted disclosure

- (1) The Secretary of State may by order amend section 15D(3), (4) and (5).
- (2) An order under this section must not—
  - (a) amend subsection (3) of that section (UK public authorities) by specifying a person unless the person exercises functions of a public nature (whether or not he exercises any other function);
  - (b) amend subsection (4) of that section (purposes for which disclosure permitted) by adding or modifying a description of disclosure unless the purpose for which the disclosure is permitted is likely to facilitate the exercise of a function of a public nature;

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- (c) amend subsection (5) of that section (overseas regulatory authorities) so as to have the effect of permitting disclosures to be made to a body other than one that exercises functions of a public nature in a country or territory outside the United Kingdom.
- (3) The power to make an order under this section is exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F19** Ss. 15-15E substituted for s. 15 (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 232\(2\)](#) (with arts. 6, 11, 12)

*Bodies concerned with accounting standards etc.*

## 16 Grants to bodies concerned with accounting standards etc.

- (1) The Secretary of State may make grants to any body carrying on activities concerned with any of the matters set out in subsection (2).
- (2) The matters are—
- (a) issuing accounting standards;
  - (b) issuing standards in respect of matters to be contained in reports required to be produced by auditors or company directors;
  - (c) investigating departures from standards within paragraph (a) or (b) or from the accounting requirements of [<sup>F20</sup>the Companies Act 2006] or any requirements of directly applicable Community legislation relating to company accounts;
  - (d) taking steps to secure compliance with such standards or requirements;
  - (e) keeping under review periodic accounts and reports that are produced by issuers of listed securities and are required to comply with any accounting requirements imposed by listing rules;
  - (f) establishing, maintaining or carrying out arrangements within [<sup>F21</sup>paragraph 21, 22, 23(1) or 24(1) of Schedule 10 to the Companies Act 2006;]
  - (g) exercising functions of the Secretary of State under [<sup>F22</sup>Part 42 of that Act] ;
  - (h) carrying out investigations into public interest cases arising in connection with the performance of accountancy functions by members of professional accountancy bodies;
  - (i) holding disciplinary hearings relating to members of such bodies following the conclusion of such investigations;
  - (j) deciding whether (and, if so, what) disciplinary action should be taken against members of such bodies to whom such hearings related;
  - (k) supervising the exercise by such bodies of regulatory functions in relation to their members;
  - [<sup>F23</sup>(ka) exercising functions of the Independent Supervisor appointed under Chapter 3 of Part 42 of the Companies Act 2006;]
  - [<sup>F24</sup>(kb) establishing, maintaining or carrying out arrangements within paragraph 1 or 2 of Schedule 12 to the Companies Act 2006;]
  - [<sup>F25</sup>(l) issuing standards to be applied in actuarial work;

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- (m) issuing standards in respect of matters to be contained in reports or other communications required to be produced or made by actuaries or in accordance with standards within paragraph (l);
  - (n) investigating departures from standards within paragraph (l) or (m);
  - (o) taking steps to secure compliance with standards within paragraph (l) or (m);
  - (p) carrying out investigations into public interest cases arising in connection with the performance of actuarial functions by members of professional actuarial bodies;
  - (q) holding disciplinary hearings relating to members of professional actuarial bodies following the conclusion of investigations within paragraph (p);
  - (r) deciding whether (and, if so, what) disciplinary action should be taken against members of professional actuarial bodies to whom hearings within paragraph (q) related;
  - (s) supervising the exercise by professional actuarial bodies of regulatory functions in relation to their members;
  - (t) overseeing or directing any of the matters mentioned above.]
- (3) A grant may be made to a body within subsection (1) in respect of any of its activities.
- (4) For the purposes of this section—
- (a) a body is to be regarded as carrying on any subsidiary activities of the body; and
  - (b) a body's "subsidiary activities" are activities carried on by any of its subsidiaries or by any body established under its constitution or under the constitution of such a subsidiary.

(5) In this section—

"accountancy functions" means functions performed as an accountant, whether in the capacity of auditor or otherwise;

"company" means a company within the meaning of the Companies Act 1985 (c. 6) [<sup>F26</sup>or the 1986 Order];

[<sup>F27</sup> "listed securities" and "listing rules" have the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation of Part 6);

"issuer", in relation to listed securities, has the meaning given by section 102A(6)(b) of the Financial Services and Markets Act 2000 (meaning of "securities" etc.); ]

"professional accountancy body" means—

- (a) a supervisory body which is recognised for the purposes of [<sup>F28</sup>Part 42 of the Companies Act 2006] , or
- (b) a qualifying body, as defined by [<sup>F29</sup>section 1220] of that Act, which enforces rules as to the performance of accountancy functions by its members,

and references to the members of professional accountancy bodies include persons who, although not members of such bodies, are subject to their rules in performing accountancy functions;

[<sup>F30</sup> " professional actuarial body " means—

- (a) the Institute of Actuaries, or
- (b) the Faculty of Actuaries in Scotland,

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and the “members” of a professional actuarial body include persons who, although not members of the body, are subject to its rules in performing actuarial functions;]

“public interest cases” means matters which raise or appear to raise important issues affecting the public interest;

“regulatory functions”, in relation to professional accountancy bodies, means any of the following functions—

- (a) investigatory or disciplinary functions exercised by such bodies in relation to the performance by their members of accountancy functions,
- (b) the setting by such bodies of standards in relation to the performance by their members of accountancy functions, and
- (c) the determining by such bodies of requirements in relation to the education and training of their members;

[<sup>F30</sup> “regulatory functions”, in relation to professional accountancy bodies, means any of the following functions—

- (a) investigatory or disciplinary functions exercised by such bodies in relation to the performance by their members of actuarial functions,
- (b) the setting by such bodies of standards in relation to the performance by their members of actuarial functions, and
- (c) the determining by such bodies of requirements in relation to the education and training of their members;]

“subsidiary” has the meaning given by section 736 of the Companies Act 1985 [<sup>F31</sup> or Article 4 of the 1986 Order].

[<sup>F32</sup> “the 1986 Order” means the Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I. 6)). ]

[<sup>F33</sup>(6) In their application to Scotland, subsection (2)(a) to (t) are to be read as referring only to matters provision relating to which would be outside the legislative competence of the Scottish Parliament.]

(7) Omit section 256(3) of the Companies Act 1985 (c. 6) (grants to bodies concerned with issuing accounting standards etc.), which is superseded by this section.

#### Textual Amendments

- F20** Words in s. 16(2)(c) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 233** (with arts. 6, 11, 12)
- F21** Words in s. 16(2)(f) substituted (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), **Sch. 14 para. 1(2)(a)**; S.I. 2007/3495, art. 3(1)(u) (with arts. 7, 12)
- F22** Words in s. 16(2)(g) substituted (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), **Sch. 14 para. 1(2)(b)**; S.I. 2007/3495, art. 3(1)(u) (with arts. 7, 12)
- F23** S. 16(2)(ka) inserted (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), **ss. 1238**, 1300(2); S.I. 2007/3495, art. 3(1)(u) (with arts. 7, 12)
- F24** S. 16(2)(kb) inserted (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), **ss. 1247**, 1300(2); S.I. 2007/3495, art. 3(1)(u) (with arts. 7, 12)
- F25** S. 16(2)(l)-(t) substituted for s. 16(2)(l) (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), **ss. 1274(2)**, 1300(1)
- F26** Words in s. 16(5) inserted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), **ss. 1276(4)(a)**, 1300(1)
- F27** Words in s. 16(5) substituted (1.7.2005) by [The Prospectus Regulations 2005 \(S.I. 2005/1433\)](#), reg. 1(1), **Sch. 3 para. 6**

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- F28** Words in s. 16(5) substituted (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 14 para. 1\(3\)\(a\)](#); S.I. 2007/3495, art. 3(1)(u) (with arts. 712)
- F29** Words in s. 16(5) substituted (6.4.2008) by [Companies Act 2006 \(c. 46\)](#), s. 1300(2), [Sch. 14 para. 1\(3\)\(b\)](#); S.I. 2007/3495, art. 3(1)(u) (with arts. 712)
- F30** Words in s. 16(5) inserted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), [ss. 1274\(3\)](#), 1300(1)
- F31** Words in s. 16(5) inserted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), [ss. 1276\(4\)\(b\)](#), 1300(1)
- F32** Words in s. 16(5) inserted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), [ss. 1276\(4\)\(c\)](#), 1300(1)
- F33** S. 16(6) substituted (8.11.2006) by [Companies Act 2006 \(c. 46\)](#), [ss. 1276\(2\)](#), 1300(1)

#### **Commencement Information**

- I2** S. 16 in force at 1.1.2005 by [S.I. 2004/3322](#), art. 2(1), [Sch. 1](#)

## **17 Levy to pay expenses of bodies concerned with accounting standards etc.**

- (1) For the purpose of meeting any part of the expenses of a grant-aided body, the Secretary of State may by regulations provide for a levy to be payable to that body (“the specified recipient”) by bodies or persons which are specified, or are of a description specified, in the regulations.
- (2) For the purposes of this section—
  - (a) “grant-aided body” means a body to whom the Secretary of State has paid, or is proposing to pay, grant under section 16; and
  - (b) any expenses of any body carrying on subsidiary activities of the grant-aided body (within the meaning of that section) are to be regarded as expenses of the grant-aided body.
- (3) The power to specify (or to specify descriptions of) bodies or persons must be exercised in such a way that the levy is only payable by—
  - (a) bodies corporate to which the Secretary of State considers that any of the activities of the specified recipient, or any of its subsidiary activities, are relevant to a significant extent, or
  - (b) bodies or persons who the Secretary of State considers have a major interest in any of those activities being carried on.
- (4) Regulations under this section may in particular—
  - (a) specify the rate of the levy and the period in respect of which it is payable at that rate;
  - (b) make provision as to the times when, and the manner in which, payments are to be made in respect of the levy.
- (5) In determining the rate of the levy payable in respect of a particular period, the Secretary of State—
  - (a) must take into account the amount of any grant which is to be or has been made to the specified recipient in respect of that period under section 16;
  - (b) may take into account estimated as well as actual expenses of that body in respect of that period.
- (6) Any amount of levy payable by any body or person is a debt due from the body or person to the specified recipient, and is recoverable accordingly.
- (7) The specified recipient must—
  - (a) keep proper accounts in respect of amounts of levy received, and

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- (b) prepare in relation to each levy period a statement of account relating to such amounts in such form and manner as is specified in the regulations.
- (8) Those accounts must be audited, and the statement certified, by persons appointed by the Secretary of State.
- (9) The power to make regulations under this section is exercisable by statutory instrument.
- (10) Regulations to which this subsection applies may not be made unless a draft of the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (11) Subsection (10) applies to—
  - (a) the first regulations under this section, and
  - (b) any other regulations under this section that would result in any change in the bodies or persons by whom the levy is payable.
- (12) Otherwise, any statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Commencement Information**

**I3** S. 17 in force at 1.1.2005 by [S.I. 2004/3322](#), art. 2(1), [Sch. 1](#)

## **18 Exemption from liability**

- (1) Where a grant has been paid by the Secretary of State to a body under section 16, this section prevents any liability in damages arising in respect of certain acts or omissions occurring during the period of 12 months beginning with the date on which the grant was paid.
- (2) In this section—
  - “the exemption period” means the period of 12 months mentioned in subsection (1);
  - “a relevant body” means the body mentioned in that subsection or a body carrying on any subsidiary activities of that body (within the meaning of section 16);
  - “section 16(2) activities” means activities concerned with any of the matters set out in section 16(2).
- (3) Neither a relevant body, nor any person who is (or is acting as) a member, officer or member of staff of a relevant body, is to be liable in damages for anything done, or omitted to be done, during the exemption period for the purposes of or in connection with—
  - (a) the carrying on of any section 16(2) activities of the body, or
  - (b) the purported carrying on of any such activities.
- (4) Subsection (3) does not apply—
  - (a) if the act or omission is shown to have been in bad faith; or
  - (b) so as to prevent an award of damages in respect of the act or omission on the grounds that it was unlawful as a result of section 6(1) of the Human Rights

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Act 1998 (c. 42) (acts of public authorities incompatible with Convention rights).

#### Commencement Information

**I4** S. 18 in force at 1.1.2005 by [S.I. 2004/3322](#), [art. 2\(1\)](#), [Sch. 1](#)

## CHAPTER 3

### DIRECTORS' LIABILITIES

#### <sup>F34F34</sup> ... Relaxation of prohibition on provisions protecting directors etc. from liability

#### Textual Amendments

**F34** S. 19 repealed (1.10.2007 for the repeal of s. 19(1), 6.4.2008 in so far as not already in force) by [Companies Act 2006 \(c. 46\)](#), [s. 1300\(2\)](#), [Sch. 16](#); [S.I. 2007/2194](#), [art. 8](#), [Sch. 2 Pt. 1](#) (with [arts. 712Sch. 3 para. 48](#)); [S.I. 2007/3495](#), [art. 8\(a\)](#), [Sch. 2 Pt. 1](#) (with [arts. 712](#))

#### Commencement Information

**I5** S. 19 in force at 6.4.2005 by [S.I. 2004/3322](#), [art. 2\(2\)](#), [Sch. 2](#) (with [arts. 4-13](#))

#### <sup>F35</sup> 20 Funding of director's expenditure on defending proceedings

#### Textual Amendments

**F35** S. 20 repealed (1.10.2007) by [Companies Act 2006 \(c. 46\)](#), [s. 1300\(2\)](#), [Sch. 16](#); [S.I. 2007/2194](#), [art. 8](#), [Sch. 2 Pt. 1](#) (with [arts. 7, 12](#), [Sch. 3 para. 48](#))

#### Commencement Information

**I6** S. 20 in force at 6.4.2005 by [S.I. 2004/3322](#), [art. 2\(2\)](#), [Sch. 2](#) (with [arts. 4-13](#))

## CHAPTER 4

### INVESTIGATIONS

#### 21 Power to require documents and information

For section 447 of the Companies Act 1985 (c. 6) substitute—



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#### **“447 Power to require documents and information**

- (1) The Secretary of State may act under subsections (2) and (3) in relation to a company.
- (2) The Secretary of State may give directions to the company requiring it—
  - (a) to produce such documents (or documents of such description) as may be specified in the directions;
  - (b) to provide such information (or information of such description) as may be so specified.
- (3) The Secretary of State may authorise a person (an investigator) to require the company or any other person—
  - (a) to produce such documents (or documents of such description) as the investigator may specify;
  - (b) to provide such information (or information of such description) as the investigator may specify.
- (4) A person on whom a requirement under subsection (3) is imposed may require the investigator to produce evidence of his authority.
- (5) A requirement under subsection (2) or (3) must be complied with at such time and place as may be specified in the directions or by the investigator (as the case may be).
- (6) The production of a document in pursuance of this section does not affect any lien which a person has on the document.
- (7) The Secretary of State or the investigator (as the case may be) may take copies of or extracts from a document produced in pursuance of this section.
- (8) A “document” includes information recorded in any form.
- (9) In relation to information recorded otherwise than in legible form, the power to require production of it includes power to require the production of a copy of it in legible form or in a form from which it can readily be produced in visible and legible form.”

#### **Commencement Information**

**I7** S. 21 in force at 6.4.2005 by S.I. 2004/3322, art. 2(2), Sch. 2 (with arts. 4-13)

## **22 Protection in relation to certain disclosures**

After section 448 of the Companies Act 1985 (c. 6) insert—

#### **“448A Protection in relation to certain disclosures: information provided to Secretary of State**

- (1) A person who makes a relevant disclosure is not liable by reason only of that disclosure in any proceedings relating to a breach of an obligation of confidence.

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- (2) A relevant disclosure is a disclosure which satisfies each of the following conditions—
- (a) it is made to the Secretary of State otherwise than in compliance with a requirement under this Part;
  - (b) it is of a kind that the person making the disclosure could be required to make in pursuance of this Part;
  - (c) the person who makes the disclosure does so in good faith and in the reasonable belief that the disclosure is capable of assisting the Secretary of State for the purposes of the exercise of his functions under this Part;
  - (d) the information disclosed is not more than is reasonably necessary for the purpose of assisting the Secretary of State for the purposes of the exercise of those functions;
  - (e) the disclosure is not one falling within subsection (3) or (4).
- (3) A disclosure falls within this subsection if the disclosure is prohibited by virtue of any enactment.
- (4) A disclosure falls within this subsection if—
- (a) it is made by a person carrying on the business of banking or by a lawyer, and
  - (b) it involves the disclosure of information in respect of which he owes an obligation of confidence in that capacity.
- (5) An enactment includes an enactment—
- (a) comprised in, or in an instrument made under, an Act of the Scottish Parliament;
  - (b) comprised in subordinate legislation (within the meaning of the Interpretation Act 1978);
  - (c) whenever passed or made.”

#### Commencement Information

**I8** S. 22 in force at 6.4.2005 by [S.I. 2004/3322](#), art. 2(2), [Sch. 2](#) (with arts. 4-13)

## 23 Power to enter and remain on premises

After section 453 of the Companies Act 1985 (c. 6) insert—

### “453A Power to enter and remain on premises

- (1) An inspector or investigator may act under subsection (2) in relation to a company if—
  - (a) he is authorised to do so by the Secretary of State, and
  - (b) he thinks that to do so will materially assist him in the exercise of his functions under this Part in relation to the company.
- (2) An inspector or investigator may at all reasonable times—
  - (a) require entry to relevant premises, and

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- (b) remain there for such period as he thinks necessary for the purpose mentioned in subsection (1)(b).
- (3) Relevant premises are premises which the inspector or investigator believes are used (wholly or partly) for the purposes of the company's business.
- (4) In exercising his powers under subsection (2), an inspector or investigator may be accompanied by such other persons as he thinks appropriate.
- (5) A person who intentionally obstructs a person lawfully acting under subsection (2) or (4)—
  - (a) is guilty of an offence, and
  - (b) is liable on conviction to a fine.
- (6) Sections 732 (restriction on prosecutions), 733 (liability of individuals for corporate default) and 734 (criminal proceedings against unincorporated bodies) apply to the offence under subsection (5).
- (7) An inspector is a person appointed under section 431, 432 or 442.
- (8) An investigator is a person authorised for the purposes of section 447.

#### **453B Power to enter and remain on premises: procedural**

- (1) This section applies for the purposes of section 453A.
- (2) The requirements of subsection (3) must be complied with at the time an inspector or investigator seeks to enter relevant premises under section 453A(2)
  - (a).
- (3) The requirements are—
  - (a) the inspector or investigator must produce evidence of his identity and evidence of his appointment or authorisation (as the case may be);
  - (b) any person accompanying the inspector or investigator must produce evidence of his identity.
- (4) The inspector or investigator must, as soon as practicable after obtaining entry, give to an appropriate recipient a written statement containing such information as to—
  - (a) the powers of the investigator or inspector (as the case may be) under section 453A;
  - (b) the rights and obligations of the company, occupier and the persons present on the premises,as may be prescribed by regulations.
- (5) If during the time the inspector or investigator is on the premises there is no person present who appears to him to be an appropriate recipient for the purposes of subsection (4), the inspector or investigator must as soon as reasonably practicable send to the company—
  - (a) a notice of the fact and time that the visit took place, and
  - (b) the statement mentioned in subsection (4).
- (6) As soon as reasonably practicable after exercising his powers under section 453A(2), the inspector or investigator must prepare a written record of the visit and—

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- (a) if requested to do so by the company he must give it a copy of the record;
  - (b) in a case where the company is not the sole occupier of the premises, if requested to do so by an occupier he must give the occupier a copy of the record.
- (7) The written record must contain such information as may be prescribed by regulations.
- (8) If the inspector or investigator thinks that the company is the sole occupier of the premises an appropriate recipient is a person who is present on the premises and who appears to the inspector or investigator to be—
- (a) an officer of the company, or
  - (b) a person otherwise engaged in the business of the company if the inspector or investigator thinks that no officer of the company is present on the premises.
- (9) If the inspector or investigator thinks that the company is not the occupier or sole occupier of the premises an appropriate recipient is—
- (a) a person who is an appropriate recipient for the purposes of subsection (8), and (if different)
  - (b) a person who is present on the premises and who appears to the inspector or investigator to be an occupier of the premises or otherwise in charge of them.
- (10) A statutory instrument containing regulations made under this section is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### Commencement Information

**I9** S. 23 in force at 6.4.2005 by S.I. 2004/3322, art. 2(2), Sch. 2 (with arts. 4-13)

## 24 Failure to comply with certain requirements

After section 453B of the Companies Act 1985 (c. 6) (inserted by section 23) insert—

### “453C Failure to comply with certain requirements

- (1) This section applies if a person fails to comply with a requirement imposed by an inspector, the Secretary of State or an investigator in pursuance of either of the following provisions—
- (a) section 447;
  - (b) section 453A.
- (2) The inspector, Secretary of State or investigator (as the case may be) may certify the fact in writing to the court.
- (3) If, after hearing—
- (a) any witnesses who may be produced against or on behalf of the alleged offender;
  - (b) any statement which may be offered in defence,

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the court is satisfied that the offender failed without reasonable excuse to comply with the requirement, it may deal with him as if he had been guilty of contempt of the court.”

#### Commencement Information

**I10** S. 24 in force at 6.4.2005 by [S.I. 2004/3322](#), [art. 2\(2\)](#), [Sch. 2](#) (with [arts. 4-13](#))

## CHAPTER 5

### SUPPLEMENTARY

#### 25 Minor and consequential amendments

- (1) Schedule 2 (minor and consequential amendments relating to Part 1) has effect.
- (2) That Schedule has effect subject to the modifications set out in subsection (3)—
  - (a) in relation to England and Wales, in the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, and
  - (b) in relation to Scotland.
- (3) The modifications are—
  - (a) the amendment in paragraph 10(2) has effect as if for “12 months” there were substituted “ 6 months ”;
  - (b) the amendment in paragraph 10(3) has effect as if for “12 months”, in both places where it occurs, there were substituted “ 3 months ”;
  - (c) the amendment in paragraph 10(4) has effect as if for “12 months” there were substituted “ 6 months ”;
  - (d) the amendment in paragraph 26(2) has effect as if for “12 months” there were substituted “ 6 months ”; and
  - (e) the amendment in paragraph 26(3) has effect as if for “12 months” there were substituted “ 6 months ”.

#### Commencement Information

- I11** S. 25 in force at 1.1.2005 for specified purposes by [S.I. 2004/3322](#), [art. 2\(1\)](#), [Sch. 1](#)
- I12** S. 25 in force at 6.4.2005 for specified purposes by [S.I. 2004/3322](#), [art. 2\(2\)](#), [Sch. 2](#) (with [arts. 4-13](#))
- I13** S. 25 in force at 1.7.2005 in so far as not already in force by [S.I. 2004/3322](#), [art. 2\(3\)](#), [Sch. 3](#)

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Part 1.