



Companies (Audit, Investigations and Community Enterprise) Act 2004

2004 CHAPTER 27

PART 1

AUDITORS, ACCOUNTS, DIRECTORS' LIABILITIES AND INVESTIGATIONS

CHAPTER 2

ACCOUNTS AND REPORTS

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 the Companies Act 1985 (c. 6) 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;

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- (f) establishing, maintaining or carrying out arrangements within paragraph 17, 18, 19(1) or 20(1) of Schedule 11 to the Companies Act 1989 (c. 40);
 - (g) exercising functions of the Secretary of State under Part 2 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;
 - (l) 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);
 - "issuer", "listing rules" and "security" have the meaning given by section 103(1) of the Financial Services and Markets Act 2000 (c. 8) (interpretation of Part 6);
 - "professional accountancy body" means—
 - (a) a supervisory body which is recognised for the purposes of Part 2 of the Companies Act 1989 (c. 40), or
 - (b) a qualifying body, as defined by section 32 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;
 - "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;

“subsidiary” has the meaning given by section 736 of the Companies Act 1985.

(6) In their application to Scotland—

- (a) subsection (2)(a) is to be read as referring only to accounting standards applying in relation to the accounts of companies or bodies (other than companies) established for the purpose of carrying on any kind of business, whether or not for profit;
- (b) subsection (2)(h) to (j) are to be read as referring only to accountancy functions performed in relation to companies or such bodies, and
- (c) subsection (2)(k) is to be read as referring only to regulatory functions exercised in relation to the performance of such accountancy functions;

and in paragraph (a) above “business” includes the provision of benefits to members of the body concerned.

(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.

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.

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- (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
 - (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.

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

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