



Companies (Audit, Investigations and Community Enterprise) Act 2004

2004 CHAPTER 27

PART 1

AUDITORS, ACCOUNTS, DIRECTORS' LIABILITIES AND INVESTIGATIONS

CHAPTER 4

INVESTIGATIONS

21 Power to require documents and information

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

“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.

Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Chapter 4. (See end of Document for details)

- (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

II 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.
- (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.

Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Chapter 4. (See end of Document for details)

- (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

I2 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
 - (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.

Changes to legislation: There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Chapter 4. (See end of Document for details)

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 (8), 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—
 - (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—

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- (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

I3 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,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

I4 S. 24 in force at 6.4.2005 by [S.I. 2004/3322](#), art. 2(2), [Sch. 2](#) (with arts. 4-13)

Changes to legislation:

There are currently no known outstanding effects for the Companies (Audit, Investigations and Community Enterprise) Act 2004, Chapter 4.