



# Companies Act 2006

## 2006 CHAPTER 46

### PART 32

#### COMPANY INVESTIGATIONS: AMENDMENTS

#### **1035 Powers of Secretary of State to give directions to inspectors**

- (1) In Part 14 of the Companies Act 1985 (c. 6) (investigation of companies and their affairs), after section 446 insert—

*“Powers of Secretary of State to give directions to inspectors*

#### **446A General powers to give directions**

- (1) In exercising his functions an inspector shall comply with any direction given to him by the Secretary of State under this section.
- (2) The Secretary of State may give an inspector appointed under section 431, 432(2) or 442(1) a direction—
- (a) as to the subject matter of his investigation (whether by reference to a specified area of a company’s operation, a specified transaction, a period of time or otherwise), or
  - (b) which requires the inspector to take or not to take a specified step in his investigation.
- (3) The Secretary of State may give an inspector appointed under any provision of this Part a direction requiring him to secure that a specified report under section 437—
- (a) includes the inspector’s views on a specified matter,
  - (b) does not include any reference to a specified matter,
  - (c) is made in a specified form or manner, or
  - (d) is made by a specified date.

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*Status: This is the original version (as it was originally enacted).*

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- (4) A direction under this section—
  - (a) may be given on an inspector’s appointment,
  - (b) may vary or revoke a direction previously given, and
  - (c) may be given at the request of an inspector.
- (5) In this section—
  - (a) a reference to an inspector’s investigation includes any investigation he undertakes, or could undertake, under section 433(1) (power to investigate affairs of holding company or subsidiary);
  - (b) “specified” means specified in a direction under this section.

#### **446B Direction to terminate investigation**

- (1) The Secretary of State may direct an inspector to take no further steps in his investigation.
  - (2) The Secretary of State may give a direction under this section to an inspector appointed under section 432(1) or 442(3) only on the grounds that it appears to him that—
    - (a) matters have come to light in the course of the inspector’s investigation which suggest that a criminal offence has been committed, and
    - (b) those matters have been referred to the appropriate prosecuting authority.
  - (3) Where the Secretary of State gives a direction under this section, any direction already given to the inspector under section 437(1) to produce an interim report, and any direction given to him under section 446A(3) in relation to such a report, shall cease to have effect.
  - (4) Where the Secretary of State gives a direction under this section, the inspector shall not make a final report to the Secretary of State unless—
    - (a) the direction was made on the grounds mentioned in subsection (2) and the Secretary of State directs the inspector to make a final report to him, or
    - (b) the inspector was appointed under section 432(1) (appointment in pursuance of order of the court).
  - (5) An inspector shall comply with any direction given to him under this section.
  - (6) In this section, a reference to an inspector’s investigation includes any investigation he undertakes, or could undertake, under section 433(1) (power to investigate affairs of holding company or subsidiary).”
- (2) In section 431 of that Act (inspectors' powers during investigation) in subsection (1) for “report on them in such manner as he may direct” substitute “report the result of their investigations to him”.
  - (3) In section 432 of that Act (other company investigations) in subsection (1) for “report on them in such manner as he directs” substitute “report the result of their investigations to him”.
  - (4) In section 437 of that Act (inspectors' reports)—

- (a) in subsection (1) omit the second sentence, and
  - (b) subsections (1B) and (1C) shall cease to have effect.
- (5) In section 442 of that Act (power to investigate company ownership), omit subsection (2).

### **1036 Resignation, removal and replacement of inspectors**

After section 446B of the Companies Act 1985 (c. 6) (inserted by section 1035 above) insert—

#### *“Resignation, removal and replacement of inspectors*

##### **446C Resignation and revocation of appointment**

- (1) An inspector may resign by notice in writing to the Secretary of State.
- (2) The Secretary of State may revoke the appointment of an inspector by notice in writing to the inspector.

##### **446D Appointment of replacement inspectors**

- (1) Where—
  - (a) an inspector resigns,
  - (b) an inspector’s appointment is revoked, or
  - (c) an inspector dies,the Secretary of State may appoint one or more competent inspectors to continue the investigation.
- (2) An appointment under subsection (1) shall be treated for the purposes of this Part (apart from this section) as an appointment under the provision of this Part under which the former inspector was appointed.
- (3) The Secretary of State must exercise his power under subsection (1) so as to secure that at least one inspector continues the investigation.
- (4) Subsection (3) does not apply if—
  - (a) the Secretary of State could give any replacement inspector a direction under section 446B (termination of investigation), and
  - (b) such a direction would (under subsection (4) of that section) result in a final report not being made.
- (5) In this section, references to an investigation include any investigation the former inspector conducted under section 433(1) (power to investigate affairs of holding company or subsidiary).”.

### **1037 Power to obtain information from former inspectors etc**

- (1) After section 446D of the Companies Act 1985 (c. 6) (inserted by section 1036 above) insert—

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*Status: This is the original version (as it was originally enacted).*

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*“Power to obtain information from former inspectors etc*

**446E Obtaining information from former inspectors etc**

- (1) This section applies to a person who was appointed as an inspector under this Part—
    - (a) who has resigned, or
    - (b) whose appointment has been revoked.
  - (2) This section also applies to an inspector to whom the Secretary of State has given a direction under section 446B (termination of investigation).
  - (3) The Secretary of State may direct a person to whom this section applies to produce documents obtained or generated by that person during the course of his investigation to—
    - (a) the Secretary of State, or
    - (b) an inspector appointed under this Part.
  - (4) The power under subsection (3) to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—
    - (a) in hard copy form, or
    - (b) in a form from which a hard copy can be readily obtained.
  - (5) The Secretary of State may take copies of or extracts from a document produced in pursuance of this section.
  - (6) The Secretary of State may direct a person to whom this section applies to inform him of any matters that came to that person’s knowledge as a result of his investigation.
  - (7) A person shall comply with any direction given to him under this section.
  - (8) In this section—
    - (a) references to the investigation of a former inspector or inspector include any investigation he conducted under section 433(1) (power to investigate affairs of holding company or subsidiary), and
    - (b) “document” includes information recorded in any form.”.
- (2) In section 451A of that Act (disclosure of information by Secretary of State or inspector), in subsection (1)(a) for “446” substitute “446E”.
- (3) In section 452(1) of that Act (privileged information) for “446” substitute “446E”.

**1038 Power to require production of documents**

- (1) In section 434 of the Companies Act 1985 (c. 6) (production of documents and evidence to inspectors), for subsection (6) substitute—
 

“(6) In this section “document” includes information recorded in any form.

- (7) The power under this section to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—
  - (a) in hard copy form, or
  - (b) in a form from which a hard copy can be readily obtained.
- (8) An inspector may take copies of or extracts from a document produced in pursuance of this section.”.
- (2) In section 447 of the Companies Act 1985 (power of Secretary of State to require documents and information), for subsection (9) substitute—
  - “(9) The power under this section to require production of a document includes power, in the case of a document not in hard copy form, to require the production of a copy of the document—
    - (a) in hard copy form, or
    - (b) in a form from which a hard copy can be readily obtained.”.

### **1039 Disqualification orders: consequential amendments**

In section 8(1A)(b)(i) of the Company Directors Disqualification Act 1986 (c. 46) (disqualification after investigation of company: meaning of “investigative material”)

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- (a) after “section” insert “437, 446E,”, and
  - (b) after “448” insert “, 451A”.