

**2002 No. 1889**

**COMPANIES**

**The Companies (Disclosure of Information) (Designated  
Authorities) (No. 2) Order 2002**

*Made* - - - - - *19th July 2002*

*Laid before Parliament* *22nd July 2002*

*Coming into force* - - *14th August 2002*

The Secretary of State, in exercise of her powers under section 449(1B) and (1C) of the Companies Act 1985(a) and section 87(5) of the Companies Act 1989(b), makes the following Order:—

**Title, commencement and interpretation**

1.—(1) This Order may be cited as the Companies (Disclosure of Information) (Designated Authorities) (No. 2) Order 2002 and shall come into force on 14th August 2002.

(2) In this Order—

“the 1985 Act” means the Companies Act 1985; and

“the 1989 Act” means the Companies Act 1989.

**Designation of the Comptroller and Auditor General for the purposes of section 449(1B) of the 1985 Act; and restriction on disclosure under that section**

2.—(1) The Comptroller and Auditor General is designated for the purposes of section 449(1B) of the 1985 Act in relation to his functions under Part 2 of the National Audit Act 1983(c).

(2) But section 449(1B) permits publication or disclosure by virtue of this designation only where the publication or disclosure is made by the National Lottery Commission to the National Audit Office for the purpose of enabling or assisting the Comptroller and Auditor General to carry out an examination into the economy, efficiency and effectiveness with which the National Lottery Commission has used its resources in discharging its functions under sections 5 to 10 of the National Lottery etc. Act 1993(d).

**Addition of the Comptroller and Auditor General to the Table in section 87(4) of the 1989 Act; and restriction on disclosure under section 87(1)(b)**

3.—(1) The Table in section 87(4) of the 1989 Act is amended as follows.

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(a) 1985 c. 6; section 449(1B) and (1C) was inserted by the Financial Services Act 1986, Schedule 13, paragraph 9(2) and section 449(1B) was amended by the Companies Act 1989, section 65(4).

(b) 1989 c. 40.

(c) 1983 c. 44.

(d) 1993 c. 39; by virtue of the National Lottery Act 1998 (c. 22), Schedule 1, paragraphs 1 and 4, sections 5 to 10 of the National Lottery etc. Act 1993 have effect as if references to the Director General of the National Lottery were references to the National Lottery Commission.

(2) After the entry relating to the National Lottery Commission(a) insert the following—

“The Comptroller and Auditor General.	Functions under Part 2 of the National Audit Act 1983.”
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(3) At the end of the Table add the following—

“*Note:* Article 3(4) of the Companies (Disclosure of Information) (Designated Authorities) (No. 2) Order 2002 restricts the circumstances in which disclosure for the purpose of enabling or assisting the Comptroller and Auditor General to discharge his relevant functions is permitted.”.

(4) Disclosure under section 87(1)(b) of the 1989 Act is permitted by virtue of the amendment made by paragraph (2) only where the disclosure is made by the National Lottery Commission to the National Audit Office for the purpose of enabling or assisting the Comptroller and Auditor General to carry out an examination into the economy, efficiency and effectiveness with which the National Lottery Commission has used its resources in discharging its functions under sections 5 to 10 of the National Lottery etc. Act 1993.

*Melanie Johnson,*  
Parliamentary Under Secretary of State  
for Competition, Consumers and Markets,  
Department of Trade and Industry

19th July 2002

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(a) An entry relating to the Director General of the National Lottery was added to the Table in section 87(4) of the Companies Act 1989 by S.I. 1994/340. By virtue of the National Lottery Act 1998, Schedule 1, paragraphs 1 and 4, section 87(4) has effect as if the reference to the Director General were a reference to the National Lottery Commission.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order designates the Comptroller and Auditor General (“the Comptroller”) for the purposes of section 449(1B) of the Companies Act 1985 (“the 1985 Act”), specifies certain of his functions for those purposes and contains a restriction on the circumstances in which the disclosure of information and documents is permitted under section 449(1B) by virtue of this designation. The Order also amends the Table in section 87(4) of the Companies Act 1989 (“the 1989 Act”), adding an entry relating to those same functions of the Comptroller. The Order contains a restriction on the circumstances in which the disclosure of information is permitted by virtue of this amendment and adds a note to the Table drawing attention to the restriction.

As far as the 1985 Act is concerned, the Order has three effects. The first is to permit the disclosure of certain information and documents in circumstances where disclosure was (in the absence of the written consent of the company to which the information or documents related) formerly prohibited by section 449(1). The information and documents in question are those which relate to companies and have been obtained under section 447 (which contains powers, exercisable by the Secretary of State or an authorised person, to require companies and other persons to produce documents and provide explanations of documents). Disclosure of information and documents obtained in this way is now permitted, under section 449(1B), for the purpose of enabling or assisting the Comptroller to carry out examinations under Part 2 of the National Audit Act 1983 into the economy, efficiency and effectiveness with which the National Lottery Commission (“the Commission”) has used its resources in discharging its functions under sections 5 to 10 of the National Lottery etc. Act 1993. However, only disclosure by the Commission to the National Audit Office is permitted for this purpose.

The second effect of the Order as far as the 1985 Act is concerned is to enable the Secretary of State, under section 451A(2), to disclose information obtained under sections 434 to 446 (which contain, among other things, powers to require the production of documents and information exercisable by inspectors appointed by the Secretary of State), or to authorise or require an inspector appointed under Part 14 of the 1985 Act to disclose such information, for the purpose of enabling or assisting the Comptroller to carry out the examinations referred to above.

The third effect concerns documents obtained under section 448 of the 1985 Act (which provides for entry and search of premises under a warrant). For the purposes of sections 449 and 451A, such documents are (by virtue of section 448(8)) treated as if they have been obtained under the provision of Part 14 under which their production was or could have been required. Accordingly, where their disclosure was formerly prevented, they may now be disclosed as described above.

The disclosure of documents and information obtained under Part 14 of the 1985 Act to the Commission, for the purpose of enabling or assisting it to exercise its functions under sections 5 to 10 and 15 of the National Lottery etc. Act 1993, is permitted by virtue of the Financial Services (Disclosure of Information) (Designated Authorities) (No. 8) Order 1994 (S.I. 1994/340), as modified by Schedule 1 to the National Lottery Act 1998.

As regards the 1989 Act, the effect of the Order is that information to which section 86 of that Act applies may be disclosed under section 87(1)(b) for the purpose of enabling or assisting the Comptroller to carry out the examinations referred to above. However, only disclosure by the Commission to the National Audit Office is permitted for this purpose. (Section 86 contains restrictions on the disclosure of information supplied by an overseas regulatory authority in connection with a request for assistance and information obtained in the course of an investigation carried out in response to such a request using the powers in section 83.)

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