
STATUTORY INSTRUMENTS

2016 No. 649

**The Statutory Auditors and Third
Country Auditors Regulations 2016**

PART 2

The Competent Authority

The competent authority

3.—(1) The competent authority is responsible for—

- (a) the public oversight of statutory auditors under these Regulations;
- (b) carrying out the tasks provided for in the Audit Regulation and for ensuring that the provisions of that Regulation are applied;
- (c) the determination of technical standards (which must meet the requirements of Schedule 1) and of other standards (which must meet the requirements of that Schedule) on professional ethics and internal quality control of statutory auditors and statutory audit work;
- (d) the determination of the manner in which the standards determined under sub-paragraph (c) are to be applied in practice;
- (e) the application of the standards determined under sub-paragraph (c) (including provision for securing compliance with those standards);
- (f) the determination of criteria for the purpose of determining whether persons are eligible for appointment as statutory auditors;
- (g) the application of the criteria determined under sub-paragraph (f) to determine whether persons are eligible for appointment as statutory auditors;
- (h) registration of persons approved as eligible for appointment as statutory auditors under sub-paragraph (g);
- (i) keeping the register and making it available for inspection;
- (j) ensuring persons eligible for appointment as statutory auditors take part in appropriate programmes of continuing education in order to maintain their theoretical knowledge, professional skills and values at a sufficiently high level;
- (k) monitoring (by means of inspections) of statutory auditors and audit work;
- (l) investigations of statutory auditors and audit work; and
- (m) imposing and enforcing sanctions.

(2) The competent authority—

- (a) must consider whether and how tasks arising from its responsibility for the matters listed in sub-paragraphs (e) to (m) of paragraph (1) may be delegated to any recognised supervisory body; and
- (b) subject to paragraph (5), may delegate such tasks to any recognised supervisory body.

- (3) In exercising its duty under paragraph (2)(a), the competent authority—
- (a) must consult the recognised supervisory bodies, and
 - (b) may consider the requirements of Schedule 10 to the Act (including the way in which recognised supervisory bodies discharge those requirements).
- (4) The competent authority may delegate tasks to any recognised supervisory body in accordance with paragraphs (6) and (7).
- (5) The competent authority may not delegate tasks related to any of the matters listed in Article 24(1)(a) to (c) of the Audit Regulation.
- (6) The competent authority must specify the tasks delegated (and may specify those tasks by reference to particular descriptions of activity for which the competent authority is responsible, particular descriptions of statutory auditor or particular descriptions of audited person) and any conditions under which those tasks are to be carried out (and may vary those conditions).
- (7) The competent authority may specify (including by reference to particular descriptions of activity for which the competent authority is responsible, particular descriptions of statutory auditor or particular descriptions of audited person) exceptions to any delegation.
- (8) The competent authority may reclaim tasks it has delegated, including those which relate to a particular description of activity for which the competent authority is responsible, particular description of statutory auditor or particular description of audited person.
- (9) When the competent authority has reclaimed a task from a recognised supervisory body ('A') and delegated that task to another recognised supervisory body ('B'), section 1224ZA of the Act (as inserted by paragraph 33 of Schedule 3 to these Regulations) has effect so that the competent authority's power to call for information from A applies so that the competent authority may require A to provide such information as the competent authority considers that B reasonably requires for the performance of the task.
- (10) The competent authority must make such arrangements as it considers necessary in relation to any of the matters for which it is responsible under this regulation, including arrangements for the performance by the competent authority of any task arising from its responsibility for those matters in the following circumstances—
- (a) where the competent authority does not delegate a task to a recognised supervisory body;
 - (b) where the competent authority reclaims a task from a recognised supervisory body;
 - (c) where the recognition order in relation to a recognised supervisory body is revoked under paragraph 3 of Schedule 10 to the Act.
- (11) An obligation which a statutory auditor has by virtue of any rules which a recognised supervisory body is required to have under Part 2 of Schedule 10 to the Act is an obligation which the statutory auditor owes to the competent authority including—
- (a) where the competent authority reclaims a task from that recognised supervisory body, to the extent that the obligation arises from the competent authority having delegated that task to the body; or
 - (b) where the recognition order in relation to that recognised supervisory body is revoked under paragraph 3 of Schedule 10 to the Act, to any extent.
- (12) The Secretary of State may give directions to the competent authority in connection with the delegation of tasks to the recognised supervisory bodies.
- (13) Schedule 1 (which prescribes requirements for the standards the competent authority must determine in relation to the obligations of statutory auditors in relation to professional ethics, independence, objectivity and confidentiality) has effect.

General requirements of auditors

4.—(1) A person appointed to conduct a statutory audit must conduct that audit in accordance with the relevant standards for the conduct of statutory audits.

(2) The relevant standards are—

- (a) the standards of integrity, objectivity, professional competence, due care and professional scepticism as determined by the competent authority in accordance with Schedule 1;
- (b) the international auditing standards adopted by the European Commission in accordance with Article 26(3) of the Audit Directive (“Commission-adopted international standards”);
- (c) any auditing standards, procedures or requirements imposed by the competent authority in accordance with paragraph (3)(a);
- (d) auditing procedures or requirements imposed by the competent authority in accordance with paragraph (3)(b); and
- (e) the requirements of rules and practices of the recognised supervisory body of which the auditor is a member, provided that the rules and practices are rules and practices required by virtue of Part 2 of Schedule 10 to the Act.

(3) The competent authority may—

- (a) impose auditing standards, procedures or requirements which do not cover the same subject-matter as Commission adopted international standards; or
- (b) impose auditing procedures or requirements which cover the same subject-matter as Commission-adopted international standards but are necessary—
 - (i) to give effect to any relevant requirement relating to the scope of statutory audit; or
 - (ii) to add to the credibility and quality of financial statements.

(4) In this regulation “relevant requirement” has the same meaning as in regulation 5.

The competent authority: sanctioning powers

5.—(1) If the competent authority considers that a person (“A”) has contravened a relevant requirement, it may—

- (a) give a notice requiring A to cease the conduct giving rise to the contravention and to abstain from any repetition of that conduct,
- (b) publish a statement (which may take the form of a reprimand or severe reprimand) to that effect,
- (c) make an order prohibiting A permanently or for a specified period from carrying out statutory audits or signing audit reports,
- (d) in a case where an audit report by A does not satisfy—
 - (i) the audit reporting requirements, or
 - (ii) the requirement in regulation 4(1),make a declaration to that effect, and, where appropriate, order A to forego fees payable to A in connection with the carrying out of the statutory audit or to repay such fees,
- (e) make an order prohibiting A for a specified period of up to three years from being a member of the management body of a firm that is eligible for appointment as a statutory auditor,
- (f) make an order prohibiting A for a specified period of up to three years from acting as a director of or being otherwise concerned in the management of a public interest entity,

- (g) impose on A a financial penalty of such amount as the competent authority considers appropriate,
 - (h) make an order requiring A to take such action as the competent authority considers will mitigate the effect or prevent the recurrence of the contravention,
 - (i) make an order excluding A from membership of one or more recognised supervisory bodies.
- (2) The competent authority may only exercise the powers under paragraph (1) if A is eligible for appointment as a statutory auditor (or was so eligible at the time of the contravention).
- (3) In determining the type and level of sanctions to be imposed under this regulation, the competent authority must take into account all relevant circumstances, including—
- (a) the gravity and duration of the contravention;
 - (b) A's degree of responsibility;
 - (c) A's financial strength;
 - (d) the amount, so far as can be determined, of profits gained or losses avoided by A;
 - (e) the extent to which A has co-operated with the competent authority;
 - (f) any previous contravention by A of a relevant requirement.
- (4) For the purpose of paragraph (3)(c), A's financial strength may be determined in such manner as the competent authority considers appropriate, including—
- (a) where A is a firm by reference to A's total turnover; or
 - (b) where A is an individual by reference to A's annual income.
- (5) The competent authority may make an order ("a costs order") requiring A to pay the costs reasonably incurred by the competent authority in determining whether A has contravened the requirement, including—
- (a) its administrative costs;
 - (b) its costs of obtaining legal advice; and
 - (c) any costs incurred in considering any appeal by A.
- (6) Where a recognised supervisory body has paid any part of the costs incurred by the competent authority, a costs order may include those costs and the competent authority must reimburse those costs to the recognised supervisory body.
- (7) Any other sums received by the competent authority in payment of its costs or in payment of a financial penalty must be paid to the Secretary of State.
- (8) Where the competent authority imposes a financial penalty on A or makes a costs order applying to A—
- (a) it must specify a date by which the penalty is or the costs are required to be paid; and
 - (b) that date must be—
 - (i) in the case of a financial penalty, at least 28 days after the date on which the competent authority imposed the financial penalty, or
 - (ii) in the case of a costs order, at least 28 days after the date on which the competent authority made the costs order.
- (9) The competent authority may not exercise the powers under this regulation if and to the extent that it has delegated a task under regulation 3 which arises from its responsibilities under regulation 3(1)(m).
- (10) The competent authority must provide for an appeal against any decisions it makes under this regulation to be considered by an independent tribunal.

(11) In this regulation—

a “relevant requirement” means a requirement with which A must comply under—

- (a) these Regulations (including the requirement under regulation 4(1)),
- (b) the Audit Regulation,
- (c) Parts 16 or 42 of the Act,
- (d) Parts 10 to 12 of the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008(1),
- (e) Parts 2 and 3 of, or the Schedule to, the Partnerships (Accounts) Regulations 2008(2),
- (f) Regulation 3 of, or Schedule 1 to, the Unregistered Companies Regulations 2009(3),
- (g) Parts 2 and 3 of, or the Schedule to, the Bank Accounts Directive (Miscellaneous Banks) Regulations 2008(4),
- (h) Parts 2 and 3 of, or Schedule 1 and 2 to, the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 2008(5),
- (i) Part 8 of, or Schedule 11 to, the Building Societies Act 1986(6), or of any subordinate legislation made under that Part or that Schedule,
- (j) Part 6 of, or Schedule 14 to, the Friendly Societies Act 1992(7), or of any subordinate legislation made under that Part of that Schedule, in so far as those provisions apply to an insurance undertaking within the meaning given by Article 2.1 of Council Directive 1991/674/EEC on the annual accounts and consolidated accounts of insurance undertakings(8),
- (k) Parts 2 and 3 of, or Schedules 1 and 3 to, the Insurance Accounts Directive (Lloyd’s Syndicates and Aggregate Accounts) Regulations 2008(9), and
- (l) a standard set under the arrangements required by Schedule 10 to the Act, where those paragraphs continue to apply by virtue of regulation 1 of these Regulations,

“subordinate legislation” means legislation made by way of statutory instrument, and

“turnover”, in relation to a firm, means the amounts derived from the provision of goods and services within the United Kingdom, after deduction of—

- (a) trade discounts,
- (b) value added tax, and
- (c) any other taxes based on the amounts so derived.

Publication of sanctions and measures

6.—(1) The competent authority shall publish, in accordance with paragraphs (2) to (5) details of the sanctions it imposes under regulation 5.

(2) The details published under paragraph (1) must include—

- (a) information concerning the type of contravention and its nature;

(1) [S.I. 2008/1911](#).

(2) [S.I. 2008/569](#).

(3) [S.I. 2009/2436](#).

(4) [S.I. 2008/567](#).

(5) [S.I. 2008/565](#).

(6) 1986 c. 53.

(7) 1992 c. 40.

(8) OJ No. L 374 31.12.91, p .7.

(9) [S.I. 2008/1950](#).

- (b) unless any of the circumstances mentioned in paragraph (3) applies, the identity of the person (“A”) sanctioned under regulation 5; and
 - (c) where a sanction is subject to an appeal, information concerning the status and outcome of the appeal.
- (3) The circumstances in which A’s identity must not be published are—
- (a) where A is an individual and the competent authority considers the publication of personal data would be disproportionate;
 - (b) where publication would jeopardise the stability of financial markets;
 - (c) where publication would jeopardise an ongoing criminal investigation; and
 - (d) where publication would cause disproportionate damage to any institution or individual involved.
- (4) The competent authority shall ensure that—
- (a) information published under this regulation remains published for a proportionate period, and
 - (b) is available on the competent authority’s website for at least five years after the relevant date.
- (5) In this regulation and in regulations 7 and 8, “the relevant date” means—
- (a) where the competent authority imposes a sanction and that decision is appealed, the date on which the appeal is determined,
 - (b) where the competent authority imposes a sanction and that decision is not appealed, the date by which the appeal should have been lodged.

Enforcement of sanctions

- 7.—(1) This regulation applies if—
- (a) the competent authority has imposed a sanction under sub-paragraph (a), (c), (d) (insofar as it relates to an order to forego or repay fees), (e), (f), (g) or (h) of regulation 5(1) or made a costs order under regulation 5(5); and
 - (b) the person on whom the sanction or costs order was imposed—
 - (i) has not by the relevant date appealed against the decision, or
 - (ii) has appealed against the decision, but the appeal was unsuccessful or has been withdrawn.
- (2) If on an application by the competent authority the court decides that a person has not complied with a sanction or costs order to which this regulation applies, the court may order that person to take such steps as the court considers will secure compliance with the sanction or costs order.
- (3) In this regulation, “the court” means the High Court or, in Scotland, the Court of Session.

Recovery of financial penalties

- 8.—(1) If the whole or any part of a financial penalty or costs order is not paid by the time by which it is required to be paid, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838⁽¹⁰⁾.
- (2) Where a financial penalty or costs order, or any part of a financial penalty or costs order, has not been paid by the time when it is required to be paid and—
- (a) no appeal has been made in respect of that penalty or costs order by the relevant date; or

(10) 1838 c. 110, amended by S.I. 1993/564 and S.I. 1998/2940.

- (b) an appeal has been made in respect of that penalty or costs order, but has been determined or withdrawn,

the competent authority may recover from the person on whom the penalty or costs order was imposed, as a debt due to the competent authority, any of the penalty or costs order and any of the interest which has not been paid.

Monitoring of audits by the competent authority

9.—(1) The competent authority must monitor the conduct of statutory audit work relating to public interest entities by means of a system of inspections that satisfies the requirements of Article 26 of the Audit Regulation.

(2) The competent authority must monitor the conduct of statutory audit work which does not relate to public interest entities in accordance with paragraphs (4) to (12).

(3) Paragraph (2) does not apply to the extent that the competent authority has delegated this task under regulation 3.

(4) The competent authority must have adequate arrangements for monitoring the conduct of statutory audit work and must ensure those arrangements operate independently of the persons monitored.

(5) The competent authority must have adequate resources for effectively monitoring the conduct of statutory audit work and ensure those resources may not be influenced improperly by the persons monitored.

(6) Monitoring the conduct of statutory audit work must be carried out by means of inspections which are conducted by persons who—

- (a) have an appropriate professional education;
- (b) have experience of—
 - (i) statutory audit work, or
 - (ii) equivalent work on the audit of accounts under the law of an EEA State, or part of and EEA State, other than the United Kingdom;
- (c) have received adequate training in the conduct of inspections;
- (d) have declared that they do not have any interests likely to conflict with the proper conduct of the inspection;
- (e) have not been an employee or partner or member of the management body of the person subject to inspection and have not been otherwise associated with that person for at least three years.

(7) An inspection must—

- (a) review one or more statutory audits in which the person to whom the inspection relates has participated;
- (b) in relation to the person to whom the inspection relates, include an assessment of—
 - (i) that person's compliance with the standards set by the competent authority under these Regulations;
 - (ii) the resources allocated by that person to statutory audit work;
 - (iii) if that person is a firm, its internal quality control system;
 - (iv) the remuneration received by that person in respect of statutory audit work; and
- (c) be appropriate and proportionate in view of the scale and complexity of the statutory audit work of the person subject to inspection.

(8) An inspection conducted in relation to a firm may be treated as an inspection of all individuals responsible for statutory audit work on behalf of that firm, if the firm has a common quality assurance policy with which each such individual is required to comply.

(9) The main conclusions of the inspection must be recorded in a report which is made available to—

- (a) the person to whom the inspection relates; and
- (b) the competent authority.

(10) An inspection must be carried out in relation to each person eligible for appointment as a statutory auditor—

- (a) at such frequency as the competent authority considers appropriate given the risks arising from the statutory audit work undertaken by the person; and
- (b) at least once every six years in the case of a person who, during any of the previous five years, has carried out a statutory audit of an audited person not subject to the small companies regime (within the meaning in section 381 of the Act).

(11) The competent authority must, at least once every calendar year, publish a report containing a summary of the results of inspections conducted under this regulation (and must publish this report at the same time that it publishes the information it is required to publish under Article 28(d) of the Audit Regulation).

(12) In relation to inspections of statutory audits of undertakings that qualify as small (by virtue of section 382 or 383 of the Act) or medium-sized (by virtue of section 465 or 466 of that Act), the competent authority must take account of the fact that the standards it has adopted under these Regulations are designed to be applied in a manner that is proportionate to the scale and complexity of the business of the audited person.

Investigation powers

10. Schedule 2 (investigation powers) has effect.

Performance, monitoring and enforcement of third country audit functions

11.—(1) Regulations 4 to 9 and Schedule 2 apply in relation to—

- (a) the performance of third country audit functions by persons who are eligible for appointment as statutory auditors,
- (b) the monitoring by the competent authority of the performance of third country audit functions by persons who are eligible for appointment as statutory auditors, and
- (c) the imposition of sanctions by the competent authority in relation to the performance of third country audit functions by persons who are eligible for appointment as statutory auditors,

as they apply to the conduct of statutory audit work, the monitoring of that work and the imposition of sanctions in relation to that work, subject to the modifications set out in paragraphs (3) to (6).

(2) Paragraph (1) does not apply in respect of monitoring of the performance of third country audit functions—

- (a) for an audited entity which—
 - (i) is incorporated in a third country that has been determined by the European Commission as having an equivalent system of audit inspections, investigations and sanctions to that in the European Union under Article 46 of the Audit Directive, or

- (ii) is incorporated in a third country that is the subject of transitional arrangements by the European Commission in respect of its system of audit inspections, investigations and sanctions under Article 46 of the Audit Directive; or
- (b) by a statutory auditor—
 - (i) who is also an EEA auditor, and
 - (ii) whose performance of third country audit functions is subject to the systems of public oversight, quality assurance and investigations and sanctions of the EEA competent authority that approved the EEA auditor in accordance with the Audit Directive.
- (3) Regulations 4 to 9 and Schedule 2 apply but as if—
 - (a) for any cross-references to provisions within those regulations, there were substituted references to those provisions as they apply by virtue of this regulation; and
 - (b) for references to—
 - (i) “conduct of statutory audit work” or “conduct of a statutory audit” there were substituted references to “performance of third country audit functions”, except in regulation 5(1)(c),
 - (ii) “statutory auditors”, except in regulation 5(1)(e), or “persons appointed to conduct a statutory audit” there were substituted references to “a person who is eligible for appointment as a statutory auditor and who is appointed to perform third country audit functions”,
- and related expressions are to be construed accordingly.
- (4) Regulation 4 applies but as if for paragraphs to (2) to (4) there were substituted—
 - “(2) The relevant standards are—
 - (a) the international auditing standards adopted by the European Commission in accordance with Article 26(3) of the Audit Directive, or standards which are equivalent,
 - (b) any auditing standards, procedures or requirements imposed by the competent authority in relation to the conduct of statutory audit which do not cover the same subject-matter as the standards referred to in paragraph (a) or standards, procedures or requirements which are equivalent, and
 - (c) the requirements set out in Articles 22, 22b and 25 of the Audit Directive (independence, objectivity and audit fees), or requirements which are equivalent.
 - (3) The person who is eligible for appointment as a statutory auditor who is appointed to perform third country audit functions must, if not already required to do so by reason of carrying out statutory audits of public interest entities, publish on a website an annual transparency report equivalent to that required for auditors of public interest entities by Article 13 of the Audit Regulation (transparency report).”.
- (5) Regulation 5 applies but as if—
 - (a) paragraph (9) were omitted;
 - (b) for the definition of a “relevant requirement” in paragraph (11) were substituted—
 - “a “relevant requirement” means a requirement with which A must comply under—
 - (a) these Regulations (including the requirement under regulation 4(1)), or
 - (b) the Audit Regulation;”;
 - (c) the definition of “subordinate legislation” in paragraph (11) were omitted.
- (6) Regulation 9 applies but as if—

- (a) for paragraph (1) were substituted—
 - “(1) The competent authority must monitor the performance of third country audit functions by persons eligible for appointment as statutory auditors, and may do so by means of a system of inspections.”;
- (b) in paragraph (2)—
 - (i) the words “which does not relate to public interest entities” were omitted, and
 - (ii) for “(4) to (12)” were substituted “(4) to (11)”;
- (c) paragraph (3) were omitted;
- (d) in paragraph (6), sub-paragraph (b) were omitted;
- (e) in paragraph (10)—
 - (i) after “statutory auditor” were inserted “in respect of their performance of third country audit functions”; and
 - (ii) sub-paragraph (b) were omitted;
- (f) paragraph (12) were omitted.
- (7) Schedule 2 applies but as if—
 - (a) in paragraph 1, sub-paragraphs (3) and (4) were omitted; and
 - (b) paragraph 4 were omitted.
- (8) In this regulation, “third country audit function” means any function related to the audit of a UK-traded non-EEA company or of an equivalent body corporate whose transferable securities are admitted to trading on a regulated market situated or operating in another EEA state.