
STATUTORY INSTRUMENTS

2016 No. 649

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

PART 2

The Competent Authority

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),

(1) [S.I. 2008/1911](#).(2) [S.I. 2008/569](#).

- (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.

⁽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.