

*Draft Regulations laid before Parliament under section 17(4) and (5)(b) of the Limited Liability Partnerships Act 2000 and sections 1290 and 1292(4) of the Companies Act 2006, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2008 No. 0000**

**LIMITED LIABILITY PARTNERSHIPS**

**The Limited Liability Partnerships (Accounts and Audit)  
(Application of Companies Act 2006) Regulations 2008**

*Made* - - - - 2008  
*Coming into force* - - 1st October 2008

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 15 and 17 of the Limited Liability Partnerships Act 2000(1) and sections 1210(1)(h) and 1292(2) of the Companies Act 2006(2).

In accordance with section 17(4) and (5)(b) of the Limited Liability Partnerships Act 2000 and sections 1290 and 1292(4) of the Companies Act 2006, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

**PART 1**

**GENERAL INTRODUCTORY PROVISIONS**

**Citation and commencement**

1. These Regulations may be cited as the Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006) Regulations 2008 and come into force on 1st October 2008.

**Application**

2.—(1) Subject to paragraphs (2) to (11), these Regulations apply to accounts for financial years beginning on or after 1st October 2008.

(2) Any question whether—

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(1) 2000 c.12.  
(2) 2006 c.46.

- (a) for the purposes of section 382, 383, 384(3) or 467(3) of the Companies Act 2006, as applied to limited liability partnerships by regulations 5 and 26, a limited liability partnership or group qualified as small in a financial year beginning before 1st October 2008, or
- (b) for the purposes of section 465 or 466 of that Act, as applied to limited liability partnerships by regulation 26, a limited liability partnership or group qualified as medium-sized in any such financial year,

is to be determined by reference to the corresponding provisions of the Companies Act 1985<sup>(3)</sup> or the Companies (Northern Ireland) Order 1986<sup>(4)</sup> as applied to limited liability partnerships by the Limited Liability Partnerships Regulations 2001<sup>(5)</sup> or the Limited Liability Partnerships Regulations (Northern Ireland) 2004<sup>(6)</sup>.

(3) Sections 485 to 488 of the Companies Act 2006, as applied to limited liability partnerships by regulation 36, apply in relation to appointments of auditors for financial years beginning on or after 1st October 2008.

(4) Sections 492, 494 and 499 to 501 of the Companies Act 2006, as applied to limited liability partnerships by regulations 37, 38 and 40, apply to auditors appointed for financial years beginning on or after 1st October 2008.

(5) Section 502 of the Companies Act 2006, as applied to limited liability partnerships by regulation 40, applies to auditors appointed on or after 1st October 2008.

(6) Sections 495, 498 and 503 to 509 of the Companies Act 2006, as applied to limited liability partnerships by regulations 39 to 42, apply to auditors' reports on accounts for financial years beginning on or after 1st October 2008.

(7) Sections 510 to 513 of the Companies Act 2006, as applied to limited liability partnerships by regulations 43 and 44, apply where notice of the proposed removal is given to the auditor on or after 1st October 2008.

(8) Section 515 of the Companies Act 2006, as applied to limited liability partnerships by regulation 45, applies to appointments of auditors for financial years beginning on or after 1st October 2008.

(9) Sections 516 to 518 of the Companies Act 2006, as applied to limited liability partnerships by regulation 45, apply to resignations occurring on or after 1st October 2008.

(10) Sections 519 to 525 of the Companies Act 2006, as applied to limited liability partnerships by regulation 46, apply where the auditor ceases to hold office on or after 1st October 2008.

(11) Section 526 of the Companies Act 2006, as applied to limited liability partnerships by regulation 46, applies where the vacancy occurs on or after 1st October 2008.

## Interpretation

3.—(1) In these Regulations—

“1985 Act” means the Companies Act 1985,

“1986 Order” means the Companies (Northern Ireland) Order 1986, and

“LLP” means a limited liability partnership formed under the Limited Liability Partnerships Act 2000 or the Limited Liability Partnerships Act (Northern Ireland) 2002<sup>(7)</sup>.

(2) In these Regulations, unless the context otherwise requires—

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(3) 1985 c.6.

(4) S.I. 1986/1032 (N.I.6).

(5) S.I. 2001/10990.

(6) S.R. (NI) 2004/307.

(7) 2002 (N.I.) (c.12).

- (a) any reference to a numbered Part, section or Schedule is to the Part, section or Schedule so numbered in the Companies Act 2006,
- (b) references in provisions applied to LLPs to other provisions of the Companies Act 2006 are to those provisions as applied to LLPs by these Regulations, and
- (c) references in provisions applied to LLPs to provisions of the Insolvency Act 1986<sup>(8)</sup> or the Insolvency (Northern Ireland) Order 1989<sup>(9)</sup> are to those provisions as applied to LLPs by the Limited Liability Partnerships Regulations 2001<sup>(10)</sup> or the Limited Liability Partnerships Regulations (Northern Ireland) 2004<sup>(11)</sup>.

#### **Scheme of Part 15 as applied to LLPs**

4. Section 380 applies to LLPs, modified so that it reads as follows—

##### **“Scheme of this Part**

**380.**—(1) The requirements of this Part as to accounts and auditors’ reports apply in relation to each financial year of an LLP.

(2) In certain respects different provisions apply to different kinds of LLP.

(3) The main distinctions for this purpose are between LLPs subject to the small LLPs regime (see section 381) and LLPs that are not subject to that regime.

(4) In this Part, where provisions do not apply to all kinds of LLP, provisions applying to LLPs subject to the small LLPs regime appear before the provisions applying to other LLPs.”

## **PART 2**

### **LLPs QUALIFYING AS SMALL**

#### **LLPs subject to the small LLPs regime**

5. Sections 381 to 384<sup>(12)</sup> apply to LLPs, modified so that they read as follows—

##### **“LLPs subject to the small LLPs regime**

**381.** The small LLPs regime applies to an LLP for a financial year in relation to which the LLP—

- (a) qualifies as small (see sections 382 and 383), and
- (b) is not excluded from the regime (see section 384).

##### **LLPs qualifying as small: general**

**382.**—(1) An LLP qualifies as small in relation to its first financial year if the qualifying conditions are met in that year.

(2) An LLP qualifies as small in relation to a subsequent financial year—

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<sup>(8)</sup> 1986 (c.45).

<sup>(9)</sup> S.I. 1989/2405 (N.I. 19).

<sup>(10)</sup> S.I. 2001/1090.

<sup>(11)</sup> S.R. (NI) 2004/307.

<sup>(12)</sup> Section 381 was amended by regulation 6(1) of S.I. 2008/393, section 382(3) by regulation 3(1) of S.I. 2008/ 393, section 383(4) by regulation 3(2) of S.I. 2008/393, and section 384 by regulation 3(2) of S.I. 2007/2932.

- (a) if the qualifying conditions are met in that year and the preceding financial year;
  - (b) if the qualifying conditions are met in that year and the LLP qualified as small in relation to the preceding financial year;
  - (c) if the qualifying conditions were met in the preceding financial year and the LLP qualified as small in relation to that year.
- (3) The qualifying conditions are met by an LLP in a year in which it satisfies two or more of the following requirements—

1.	Turnover	Not more than £6.5 million
2.	Balance sheet total	Not more than £3.26 million
3.	Number of employees	Not more than 50

(4) For a period that is an LLP's financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.

(5) The balance sheet total means the aggregate of the amounts shown as assets in the LLP's balance sheet.

(6) The number of employees means the average number of persons employed by the LLP in the year, determined as follows—

- (a) find for each month in the financial year the number of persons employed under contracts of service by the LLP in that month (whether throughout the month or not),
- (b) add together the monthly totals, and
- (c) divide by the number of months in the financial year.

(7) This section is subject to section 383 (LLPs qualifying as small: parent LLPs).

#### **LLPs qualifying as small: parent LLPs**

**383.**—(1) A parent LLP qualifies as a small LLP in relation to a financial year only if the group headed by it qualifies as a small group.

(2) A group qualifies as small in relation to the parent LLP's first financial year if the qualifying conditions are met in that year.

(3) A group qualifies as small in relation to a subsequent financial year of the parent LLP—

- (a) if the qualifying conditions are met in that year and the preceding financial year;
- (b) if the qualifying conditions are met in that year and the group qualified as small in relation to the preceding financial year;
- (c) if the qualifying conditions were met in the preceding financial year and the group qualified as small in relation to that year.

(4) The qualifying conditions are met by a group in a year in which it satisfies two or more of the following requirements—

1.	Aggregate turnover	Not more than £6.5 million net (or £7.8 million gross)
2.	Aggregate balance sheet total	Not more than £3.26 million net (or £3.9 million gross)

3. Aggregate number of employees Not more than 50

(5) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with section 382 for each member of the group.

(6) In relation to the aggregate figures for turnover and balance sheet total—

“net” means after any set-offs and other adjustments made to eliminate group transactions—

- (a) in the case of non-IAS accounts in accordance with Part 1 of Schedule 4 to the Small Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]) or Schedule 3 to the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]),
- (b) in the case of IAS accounts, in accordance with international accounting standards; and

“gross” means without those set-offs and other adjustments.

An LLP may satisfy any relevant requirement on the basis of either the net or the gross figure.

(7) The figures for each subsidiary undertaking shall be those included in its individual accounts for the relevant financial year, that is—

- (a) if its financial year ends with that of the parent LLP, that financial year, and
- (b) if not, its financial year ending last before the end of the financial year of the parent LLP.

If those figures cannot be obtained without disproportionate expense or undue delay, the latest available figures shall be taken.

**LLPs excluded from the small LLPs regime**

**384.**—(1) The small LLPs regime does not apply to an LLP that is, or was at any time within the financial year to which the accounts relate—

- (a) an LLP whose securities are admitted to trading on a regulated market in an EEA State,
  - (b) an LLP that—
    - (i) is an authorised insurance company, a banking LLP, an e-money issuer, a MiFID investment firm or a UCITS management company, or
    - (ii) carries on insurance market activity, or
  - (c) a member of an ineligible group.
- (2) A group is ineligible if any of its members is—
- (a) a public company,
  - (b) a body corporate (other than a company) whose shares are admitted to trading on a regulated market in an EEA State,
  - (c) a person (other than a small company or small LLP) who has permission under Part 4 of the Financial Services and Markets Act 2000 (c.8) to carry on a regulated activity,
  - (d) a small company or small LLP that is an authorised insurance company, a banking company or banking LLP, an e-money issuer, a MiFID investment firm or a UCITS management company, or

(e) a person who carries on insurance market activity.

(3) A company or LLP is a small company or small LLP for the purposes of subsection (2) if it qualified as small in relation to its last financial year ending on or before the end of the financial year to which the accounts relate.”

## PART 3

### ACCOUNTING RECORDS

#### LLP’s accounting records

6. Sections 386 to 389 apply to LLPs, modified so that they read as follows—

##### “Duty to keep accounting records

**386.**—(1) Every LLP must keep adequate accounting records.

(2) Adequate accounting records means records that are sufficient—

- (a) to show and explain the LLP’s transactions,
- (b) to disclose with reasonable accuracy, at any time, the financial position of the LLP at that time, and
- (c) to enable the members of the LLP to ensure that any accounts required to be prepared comply with the requirements of this Act.

(3) Accounting records must, in particular, contain—

- (a) entries from day to day of all sums of money received and expended by the LLP and the matters in respect of which the receipt and expenditure takes place, and
- (b) a record of the assets and liabilities of the LLP.

(4) If the LLP’s business involves dealing in goods, the accounting records must contain—

- (a) statements of stock held by the LLP at the end of each financial year of the LLP,
- (b) all statements of stocktakings from which any statement of stock as is mentioned in paragraph (a) has been or is to be prepared, and
- (c) except in the case of goods sold by way of ordinary retail trade, statements of all goods sold and purchased, showing the goods and the buyers and sellers in sufficient detail to enable all these to be identified.

(5) A parent LLP that has a subsidiary undertaking in relation to which the above requirements do not apply must take reasonable steps to secure that the undertaking keeps such accounting records as to enable the members of the parent LLP to ensure that any accounts required to be prepared under this Part comply with the requirements of this Act.

##### Duty to keep accounting records: offence

**387.**—(1) If an LLP fails to comply with any provision of section 386 (duty to keep accounting records), an offence is committed by every member of the LLP who is in default.

(2) It is a defence for a person charged with such an offence to show that he acted honestly and that in the circumstances in which the LLP’s business was carried on the default was excusable.

(3) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- (b) on summary conviction—
  - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
  - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).

### **Where and for how long records to be kept**

**388.**—(1) An LLP's accounting records—

- (a) must be kept at its registered office or such other place as the members think fit, and
- (b) must at all times be open to inspection by the members of the LLP.

(2) If accounting records are kept at a place outside the United Kingdom, accounts and returns with respect to the business dealt with in the accounting records so kept must be sent to, and kept at, a place in the United Kingdom, and must at all times be open to such inspection.

(3) The accounts and returns to be sent to the United Kingdom must be such as to—

- (a) disclose with reasonable accuracy the financial position of the business in question at intervals of not more than six months, and
- (b) enable the members of the LLP to ensure that the accounts required to be prepared under this Part comply with the requirements of this Act.

(4) Accounting records that an LLP is required by section 386 to keep must be preserved by it for three years from the date on which they are made.

(5) Subsection (4) is subject to any provision contained in rules made under section 411 of the Insolvency Act 1986 (c.45) (company insolvency rules) or Article 359 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

### **Where and for how long records to be kept: offences**

**389.**—(1) If an LLP fails to comply with any provision of subsections (1) to (3) of section 388 (requirements as to keeping of accounting records), an offence is committed by every member of the LLP who is in default.

(2) It is a defence for a person charged with such an offence to show that he acted honestly and that in the circumstances in which the LLP's business was carried on the default was excusable.

(3) A member of an LLP commits an offence if he—

- (a) fails to take all reasonable steps for securing compliance by the LLP with subsection (4) of that section (period for which records to be preserved), or
- (b) intentionally causes any default by the LLP under that subsection.

(4) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- (b) on summary conviction—
  - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);

- (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).”

## PART 4

### FINANCIAL YEARS

#### **An LLP’s financial year**

7.—(1) Sections 390 to 392 apply to LLPs, modified so that they read as follows—

#### **“An LLP’s financial year**

**390.**—(1) An LLP’s financial year is determined as follows.

(2) Its first financial year—

- (a) begins with the first day of its first accounting reference period, and
- (b) ends with the last day of that period or such other date, not more than seven days before or after the end of that period, as the members of the LLP may determine.

(3) Subsequent financial years—

- (a) begin with the day immediately following the end of the LLP’s previous financial year, and
- (b) end with the last day of its next accounting reference period or such other date, not more than seven days before or after the end of that period, as the members of the LLP may determine.

(4) In relation to an undertaking that is not an LLP, references in this Act to its financial year are to any period in respect of which a profit and loss account of the undertaking is required to be made up (by its constitution or by the law under which it is established), whether that period is a year or not.

(5) The members of a parent LLP must secure that, except where in their opinion there are good reasons against it, the financial year of each of its subsidiary undertakings coincides with the LLP’s own financial year.

#### **Accounting reference periods and accounting reference date**

**391.**—(1) An LLP’s accounting reference periods are determined according to its accounting reference date in each calendar year.

(2) The accounting reference date of an LLP is the last day of the month in which the anniversary of its incorporation falls.

(3) An LLP’s first accounting reference period is the period of more than six months, but not more than 18 months, beginning with the date of its incorporation and ending with its accounting reference date.

(4) Its subsequent accounting reference periods are successive periods of twelve months beginning immediately after the end of the previous accounting reference period and ending with its accounting reference date.

(5) This section has effect subject to the provisions of section 392 (alteration of accounting reference date).



### Alteration of accounting reference date

**392.**—(1) An LLP may by notice given to the registrar specify a new accounting reference date having effect in relation to—

- (a) the LLP’s current accounting reference period and subsequent periods, or
- (b) the LLP’s previous accounting reference period and subsequent periods.

An LLP’s “previous accounting reference period” means the one immediately preceding its current accounting reference period.

(2) The notice must state whether the current or previous accounting reference period—

- (a) is to be shortened, so as to come to an end on the first occasion on which the new accounting reference date falls or fell after the beginning of the period, or
- (b) is to be extended, so as to come to an end on the second occasion on which that date falls or fell after the beginning of the period.

(3) A notice extending an LLP’s current or previous accounting reference period is not effective if given less than five years after the end of an earlier accounting reference period of the LLP that was extended under this section.

This does not apply—

- (a) to a notice given by an LLP that is a subsidiary undertaking or parent undertaking of another EEA undertaking if the new accounting reference date coincides with that of the other EEA undertaking or, where that undertaking is not a company or an LLP, with the last day of its financial year, or
- (b) where the LLP is in administration under Part 2 of the Insolvency Act 1986 (c.45) or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)), or
- (c) where the Secretary of State directs that it should not apply, which he may do with respect to a notice that has been given or that may be given.

(4) A notice under this section may not be given in respect of a previous accounting reference period if the period for filing the accounts and auditor’s report for the financial year determined by reference to that accounting reference period has already expired.

(5) An accounting reference period may not be extended so as to exceed 18 months and a notice under this section is ineffective if the current or previous accounting reference period as extended in accordance with the notice would exceed that limit.

This does not apply where the LLP is in administration under Part 2 of the Insolvency Act 1986 (c.45) or Part 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

(6) In this section “EEA undertaking” means an undertaking established under the law of any part of the United Kingdom or the law of any other EEA State.”

(2) Until section 1068(1) comes fully into force, the notice referred to in section 392 (notice of alteration of accounting reference date) as applied to LLPs by paragraph (1) must be given in the form prescribed for the purposes of—

- (a) section 225(1) of the 1985 Act as applied to LLPs by regulation 3 of, and Schedule 1 to, the Limited Liability Partnerships Regulations 2001(13), or
- (b) Article 233(1) of the 1986 Order as applied to LLPs by regulation 3 of, and Schedule 1 to, the Limited Liability Partnerships Regulations (Northern Ireland) 2004(14).

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(13) S.I. 2001/1090.

(14) S.R. (NI) 2004/307.

## PART 5

### ANNUAL ACCOUNTS

#### Annual accounts to give true and fair view

8. Section 393 applies to LLPs, modified so that it reads as follows—

##### “Accounts to give true and fair view

**393.**—(1) The members of an LLP must not approve accounts for the purposes of this Chapter unless they are satisfied that they give a true and fair view of the assets, liabilities, financial position and profit or loss—

- (a) in the case of the LLP’s individual accounts, of the LLP;
- (b) in the case of the LLP’s group accounts, of the undertakings included in the consolidation as a whole, so far as concerns members of the LLP.

(2) The auditor of an LLP in carrying out his functions under this Act in relation to the LLP’s annual accounts must have regard to the members’ duty under subsection (1).”

#### Individual accounts

9. Sections 394 to 397(15) apply to LLPs, modified so that they read as follows—

##### “Duty to prepare individual accounts

**394.** The members of every LLP must prepare accounts for the LLP for each of its financial years.

Those accounts are referred to as the LLP’s “individual accounts”.

##### Individual accounts: applicable accounting framework

**395.**—(1) An LLP’s individual accounts may be prepared—

- (a) in accordance with section 396 (“non-IAS individual accounts”), or
- (b) in accordance with international accounting standards (“IAS individual accounts”).

This is subject to the following provisions of this section and to section 407 (consistency of financial reporting within group).

(2) After the first financial year in which the members of an LLP prepare IAS individual accounts (“the first IAS year”), all subsequent individual accounts of the LLP must be prepared in accordance with international accounting standards unless there is a relevant change of circumstance.

(3) There is a relevant change of circumstance if, at any time during or after the first IAS year—

- (a) the LLP becomes a subsidiary undertaking of another undertaking that does not prepare IAS individual accounts,
- (b) the LLP ceases to be a subsidiary undertaking,

- (c) the LLP ceases to be an LLP with securities admitted to trading on a regulated market in an EEA State, or
- (d) a parent undertaking of the LLP ceases to be an undertaking with securities admitted to trading on a regulated market in an EEA State.

(4) If, having changed to preparing non-IAS individual accounts following a relevant change of circumstance, the members again prepare IAS individual accounts for the LLP, subsections (2) and (3) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

### **Non-IAS individual accounts**

**396.**—(1) Non-IAS individual accounts must comprise—

- (a) a balance sheet as at the last day of the financial year, and
- (b) a profit and loss account.

(2) The accounts must—

- (a) in the case of the balance sheet, give a true and fair view of the state of affairs of the LLP as at the end of the financial year, and
- (b) in the case of the profit and loss account, give a true and fair view of the profit or loss of the LLP for the financial year.

(3) The accounts must comply with the provisions of—

- (a) regulation 3 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS individual accounts of LLP subject to the small LLPs regime) (S.I. 2008/[ ]), or
- (b) regulations 3 and 4 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS individual accounts of large and medium-sized LLPs) (S.I. 2008/[ ]),

as to the form and content of the balance sheet and profit and loss account, and additional information to be provided by way of notes to the accounts..

(4) If compliance with the regulations specified in subsection (3), and any other provision made by or under this Act as to the matters to be included in an LLP's individual accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information must be given in the accounts or in a note to them.

(5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the members must depart from that provision to the extent necessary to give a true and fair view.

Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.

### **IAS individual accounts**

**397.** Where the members of an LLP prepare IAS individual accounts, they must state in the notes to the accounts that the accounts have been prepared in accordance with international accounting standards.”

### **Group accounts**

**10.** Sections 398 to 408(16) apply to LLPs, modified so that they read as follows—

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(16) Section 408 was amended by regulation 10 of [S.I. 2008/393](#).

### “Option to prepare group accounts

**398.** If at the end of a financial year an LLP subject to the small LLPs regime is a parent LLP the members, as well as preparing individual accounts for the year, may prepare group accounts for the year.

### Duty to prepare group accounts

**399.**—(1) This section applies to LLPs that are not subject to the small LLPs regime.

(2) If at the end of a financial year the LLP is a parent LLP the members, as well as preparing individual accounts for the year, must prepare group accounts for the year unless the LLP is exempt from that requirement.

(3) There are exemptions under—

- (a) section 400 (LLP included in EEA accounts of larger group),
- (b) section 401 (LLP included in non-EEA accounts of larger group), and
- (c) section 402 (LLP none of whose subsidiary undertakings need be included in the consolidation).

(4) An LLP to which this section applies but which is exempt from the requirement to prepare group accounts, may do so.

### Exemption for LLP included in EEA group accounts of larger group

**400.**—(1) An LLP is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its immediate parent undertaking is established under the law of an EEA State, in the following cases—

- (a) where the LLP is a wholly-owned subsidiary of that parent undertaking;
- (b) where that parent undertaking holds more than 50% of the shares in the LLP and notice requesting the preparation of group accounts has not been served on the LLP by members holding in aggregate—
  - (i) more than half of the remaining shares in the LLP, or
  - (ii) 5% of the total shares in the LLP.

Such notice must be served not later than six months after the end of the financial year before that to which it relates.

(2) Exemption is conditional upon compliance with all of the following conditions—

- (a) the LLP must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking established under the law of an EEA State;
- (b) those accounts must be drawn up and audited, and that parent undertaking’s annual report must be drawn up, according to that law—
  - (i) in accordance with the provisions of the Seventh Directive (83/349/EEC) (as modified, where relevant, by the provisions of the Bank Accounts Directive (86/635/EEC) or the Insurance Accounts Directive (91/674/EEC)), or
  - (ii) in accordance with international accounting standards;
- (c) the LLP must disclose in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;
- (d) the LLP must state in its individual accounts the name of the parent undertaking that draws up the group accounts referred to above and—

- (i) if it is incorporated outside the United Kingdom, the country in which it is incorporated, or
    - (ii) if it is unincorporated, the address of its principal place of business;
  - (e) the LLP must deliver to the registrar, within the period for filing its accounts and auditor's report for the financial year in question, copies of those group accounts, together with the auditor's report on them;
  - (f) any requirement of Part 35 of this Act as to the delivery to the registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with paragraph (e).
- (3) For the purposes of subsection (1)(b) shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, shall be attributed to the parent undertaking.
- (4) The exemption does not apply to an LLP any of whose securities are admitted to trading on a regulated market in an EEA State.
- (5) In subsection (4) "securities" includes—
- (a) debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness,
  - (b) warrants or other instruments entitling the holder to subscribe for securities falling within paragraph (a), and
  - (c) certificates or other instruments that confer—
    - (i) property rights in respect of a security falling within paragraph (a) or (b),
    - (ii) any right to acquire, dispose of, underwrite or convert a security, being a right to which the holder would be entitled if he held any such security to which the certificate or other instrument relates, or
    - (iii) a contractual right (other than an option) to acquire any such security otherwise than by subscription.

#### **Exemption for LLP included in non-EEA group accounts of larger group**

**401.**—(1) An LLP is exempt from the requirement to prepare group accounts if it is itself a subsidiary undertaking and its parent undertaking is not established under the law of an EEA State, in the following cases—

- (a) where the LLP is a wholly-owned subsidiary of that parent undertaking;
- (b) where that parent undertaking holds more than 50% of the shares in the LLP and notice requesting the preparation of group accounts has not been served on the LLP by members holding in aggregate—
  - (i) more than half of the remaining shares in the LLP, or
  - (ii) 5% of the total shares in the LLP.

Such notice must be served not later than six months after the end of the financial year before that to which it relates.

- (2) Exemption is conditional upon compliance with all of the following conditions—
- (a) the LLP and all of its subsidiary undertakings must be included in consolidated accounts for a larger group drawn up to the same date, or to an earlier date in the same financial year, by a parent undertaking;
  - (b) those accounts must be drawn up—

- (i) in accordance with the provisions of the Seventh Directive (83/349/EEC) (as modified, where relevant, by the provisions of the Bank Accounts Directive (86/635/EEC) or the Insurance Accounts Directive (91/674/EEC)), or
    - (ii) in a manner equivalent to consolidated accounts so drawn up;
  - (c) the group accounts must be audited by one or more persons authorised to audit accounts under the law under which the parent undertaking which draws them up is established;
  - (d) the LLP must disclose in its individual accounts that it is exempt from the obligation to prepare and deliver group accounts;
  - (e) the LLP must state in its individual accounts the name of the parent undertaking which draws up the group accounts referred to above and—
    - (i) if it is incorporated outside the United Kingdom, the country in which it is incorporated, or
    - (ii) if it is unincorporated, the address of its principal place of business;
  - (f) the LLP must deliver to the registrar, within the period for filing its accounts and auditor's report for the financial year in question, copies of the group accounts, together with the auditor's report on them;
  - (g) any requirement of Part 35 of this Act as to the delivery to the registrar of a certified translation into English must be met in relation to any document comprised in the accounts and reports delivered in accordance with paragraph (f).
- (3) For the purposes of subsection (1)(b) shares held by a wholly-owned subsidiary of the parent undertaking, or held on behalf of the parent undertaking or a wholly-owned subsidiary, shall be attributed to the parent undertaking.
- (4) The exemption does not apply to an LLP any of whose securities are admitted to trading on a regulated market in an EEA State.
- (5) In subsection (4) "securities" includes—
- (a) debentures, including debenture stock, loan stock, bonds, certificates of deposit and other instruments creating or acknowledging indebtedness,
  - (b) warrants or other instruments entitling the holder to subscribe for securities falling within paragraph (a), and
  - (c) certificates or other instruments that confer—
    - (i) property rights in respect of a security falling within paragraph (a) or (b),
    - (ii) any right to acquire, dispose of, underwrite or convert a security, being a right to which the holder would be entitled if he held any such security to which the certificate or other instrument relates, or
    - (iii) a contractual right (other than an option) to acquire any such security otherwise than by subscription.

#### **Exemption if no subsidiary undertakings need be included in the consolidation**

**402.** A parent LLP is exempt from the requirement to prepare group accounts if under section 405 all of its subsidiary undertakings could be excluded from consolidation in non-IAS group accounts.

### **Group accounts: applicable accounting framework**

**403.**—(1) The group accounts of a parent LLP may be prepared—

- (a) in accordance with section 404 (“ non-IAS group accounts”), or
- (b) in accordance with international accounting standards (“IAS group accounts”).

This is subject to the following provisions of this section.

(2) After the first financial year in which the members of a parent LLP prepare IAS group accounts (“the first IAS year”), all subsequent group accounts of the LLP must be prepared in accordance with international accounting standards unless there is a relevant change of circumstance.

(3) There is a relevant change of circumstance if, at any time during or after the first IAS year—

- (a) the LLP becomes a subsidiary undertaking of another undertaking that does not prepare IAS group accounts,
- (b) the LLP ceases to be an LLP with securities admitted to trading on a regulated market in an EEA State, or
- (c) a parent undertaking of the LLP ceases to be an undertaking with securities admitted to trading on a regulated market in an EEA State.

(4) If, having changed to preparing non-IAS group accounts following a relevant change of circumstance, the members again prepare IAS group accounts for the LLP, subsections (2) and (3) apply again as if the first financial year for which such accounts are again prepared were the first IAS year.

### **Non-IAS group accounts**

**404.**—(1) Non-IAS group accounts must comprise—

- (a) a consolidated balance sheet dealing with the state of affairs of the parent LLP and its subsidiary undertakings, and
- (b) a consolidated profit and loss account dealing with the profit or loss of the parent LLP and its subsidiary undertakings.

(2) The accounts must give a true and fair view of the state of affairs as at the end of the financial year, and the profit or loss for the financial year, of the undertakings included in the consolidation as a whole, so far as concerns members of the LLP.

(3) The accounts must comply with the provisions of—

- (a) regulation 6 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS group accounts of small parent LLP opting to prepare group accounts) (S.I. 2008/[ ]), or
- (b) regulation 6 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS group accounts of large and medium-sized parent LLPs) (S.I. 2008/[ ]),

as to the form and content of the consolidated balance sheet and consolidated profit and loss account, and additional information to be provided by way of notes to the accounts..

(4) If compliance with the regulations specified in subsection (3), and any other provision made by or under this Act as to the matters to be included in an LLP’s group accounts or in notes to those accounts, would not be sufficient to give a true and fair view, the necessary additional information must be given in the accounts or in a note to them.

(5) If in special circumstances compliance with any of those provisions is inconsistent with the requirement to give a true and fair view, the members must depart from that provision to the extent necessary to give a true and fair view.

Particulars of any such departure, the reasons for it and its effect must be given in a note to the accounts.

#### **Non-IAS group accounts: subsidiary undertakings included in the consolidation**

**405.**—(1) Where a parent LLP prepares non-IAS group accounts, all the subsidiary undertakings of the LLP must be included in the consolidation, subject to the following exceptions.

(2) A subsidiary undertaking may be excluded from consolidation if its inclusion is not material for the purpose of giving a true and fair view (but two or more undertakings may be excluded only if they are not material taken together).

(3) A subsidiary undertaking may be excluded from consolidation where—

- (a) severe long-term restrictions substantially hinder the exercise of the rights of the parent LLP over the assets or management of that undertaking, or
- (b) the information necessary for the preparation of group accounts cannot be obtained without disproportionate expense or undue delay, or
- (c) the interest of the parent LLP is held exclusively with a view to subsequent resale.

(4) The reference in subsection (3)(a) to the rights of the parent LLP and the reference in subsection (3)(c) to the interest of the parent LLP are, respectively, to rights and interests held by or attributed to the LLP for the purposes of the definition of “parent undertaking” (see section 1162) in the absence of which it would not be the parent LLP.

#### **IAS group accounts**

**406.** Where the members of an LLP prepare IAS group accounts, they must state in the notes to those accounts that the accounts have been prepared in accordance with international accounting standards.

#### **Consistency of financial reporting within group**

**407.**—(1) The members of a parent LLP must secure that the individual accounts of—

- (a) the parent LLP, and
- (b) each of its subsidiary undertakings,

are all prepared using the same financial reporting framework, except to the extent that in their opinion there are good reasons for not doing so.

(2) Subsection (1) does not apply if the members do not prepare group accounts for the parent LLP.

(3) Subsection (1) only applies to accounts of subsidiary undertakings that are required to be prepared under this Part.

(4) Subsection (1)(a) does not apply where the members of a parent LLP prepare IAS group accounts and IAS individual accounts.

#### **Individual profit and loss account where group accounts prepared**

**408.**—(1) This section applies where—

- (a) an LLP prepares group accounts in accordance with this Act, and



- (b) the notes to the LLP's individual balance sheet show the LLP's profit or loss for the financial year determined in accordance with this Act
- (2) The LLP's individual profit and loss account need not contain the information specified in section 411 (information about employee numbers and costs).
- (3) The LLP's individual profit and loss account must be approved in accordance with section 414(1) (approval by members) but may be omitted from the LLP's annual accounts for the purposes of the other provisions of this Act.
- (4) The exemption conferred by this section is conditional upon its being disclosed in the LLP's annual accounts that the exemption applies.”

### **Information to be given in notes to accounts**

11. Section 409 to 411(17) apply to LLPs, modified so that they read as follows—

#### **“Information about related undertakings**

**409.**—(1) The notes to the LLP's annual accounts must contain the information about related undertakings required by—

- (a) regulations 4 and 7 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (information about related undertakings: non-IAS or IAS individual or group accounts) (S.I. 2008/[ ]), or
- (b) regulation 5 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (information about related undertakings: non-IAS or IAS individual or group accounts) (S.I. 2008/[ ]).

(2) That information need not be disclosed with respect to an undertaking that—

- (a) is established under the law of a country outside the United Kingdom, or
- (b) carries on business outside the United Kingdom,

if the following conditions are met.

(4) The conditions are—

- (a) that in the opinion of the members of the LLP the disclosure would be seriously prejudicial to the business of—
  - (i) that undertaking,
  - (ii) the LLP,
  - (iii) any of the LLP's subsidiary undertakings, or
  - (iv) any other undertaking which is included in the consolidation;
- (b) that the Secretary of State agrees that the information need not be disclosed.

(5) Where advantage is taken of any such exemption, that fact must be stated in a note to the LLP's annual accounts.

#### **Information about related undertakings: alternative compliance**

**410.**—(1) This section applies where the members of an LLP are of the opinion that the number of undertakings in respect of which the LLP is required to disclose information under any provision of the regulations specified in section 409(1) (related undertakings) is such that compliance with that provision would result in information of excessive length being given in notes to the LLP's annual accounts.

- (2) The information need only be given in respect of—
- (a) the undertakings whose results or financial position, in the opinion of the members, principally affected the figures shown in the LLP’s annual accounts, and
  - (b) where the LLP prepares group accounts, undertakings excluded from consolidation under section 405(3) (undertakings excluded on grounds other than materiality).
- (3) If advantage is taken of subsection (2)—
- (a) there must be included in the notes to the LLP’s annual accounts a statement that the information is given only with respect to such undertakings as are mentioned in that subsection, and
  - (b) the full information (both that which is disclosed in the notes to the accounts and that which is not) must be annexed to the LLP’s next annual return.

For this purpose the “next annual return” means that next delivered to the registrar after the accounts in question have been approved under section 414.

- (4) If an LLP fails to comply with subsection (3)(b), an offence is committed by—
- (a) the LLP, and
  - (b) every member of the LLP who is in default.

(5) A person guilty of an offence under subsection (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

#### **Information about off-balance sheet arrangements**

**410A.**—(1) In the case of an LLP that is not subject to the small LLPs regime, if in any financial year—

- (a) the LLP is or has been party to arrangements that are not reflected in its balance sheet, and
- (b) at the balance sheet date the risks or benefits arising from those arrangements are material,

the information required by this section must be given in notes to the LLP’s annual accounts.

- (2) The information required is—
- (a) the nature and business purpose of the arrangements, and
  - (b) the financial impact of the arrangements on the LLP.
- (3) The information need only be given to the extent necessary for enabling the financial position of the LLP to be assessed.
- (4) If the LLP qualifies as medium-sized in relation to the financial year (see sections 465 to 467) it need not comply with subsection (2)(b).
- (5) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single LLP.

#### **Information about employee numbers and costs**

**411.**—(1) In the case of an LLP not subject to the small LLPs regime, the following information with respect to the employees of the LLP must be given in notes to the LLP’s annual accounts—

- (a) the average number of persons employed by the LLP in the financial year, and
  - (b) the average number of persons so employed within each category of persons employed by the LLP.
- (2) The categories by reference to which the number required to be disclosed by subsection (1)(b) is to be determined must be such as the members may select having regard to the manner in which the LLP's activities are organised.
- (3) The average number required by subsection (1)(a) or (b) is determined by dividing the relevant annual number by the number of months in the financial year.
- (4) The relevant annual number is determined by ascertaining for each month in the financial year—
- (a) for the purposes of subsection (1)(a), the number of persons employed under contracts of service by the LLP in that month (whether throughout the month or not);
  - (b) for the purposes of subsection (1)(b), the number of persons in the category in question of persons so employed;
- and adding together all the monthly numbers.
- (5) In respect of all persons employed by the LLP during the financial year who are taken into account in determining the relevant annual number for the purposes of subsection (1)
- (a) there must also be stated the aggregate amounts respectively of—
    - (a) wages and salaries paid or payable in respect of that year to those persons;
    - (b) social security costs incurred by the LLP on their behalf; and
    - (c) other pension costs so incurred.

This does not apply in so far as those amounts, or any of them, are stated elsewhere in the LLP's accounts.

- (6) In subsection (5)—
- “pension costs” includes any costs incurred by the LLP in respect of—
- (a) any pension scheme established for the purpose of providing pensions for persons currently or formerly employed by the LLP,
  - (b) any sums set aside for the future payment of pensions directly by the LLP to current or former employees, and
  - (c) any pensions paid directly to such persons without having first been set aside;
- “social security costs” means any contributions by the LLP to any state social security or pension scheme, fund or arrangement.
- (7) This section applies in relation to group accounts as if the undertakings included in the consolidation were a single LLP.”

### **Approval and signing of accounts**

**12.** Section 414 applies to LLPs, modified so that it reads as follows—

#### **“Approval and signing of accounts**

- 414.**—(1) An LLP's annual accounts must be approved by the members, and signed on behalf of all the members by a designated member.
- (2) The signature must be on the LLP's balance sheet.

(3) If the accounts are prepared in accordance with the provisions applicable to LLPs subject to the small LLPs regime, the balance sheet must contain a statement to that effect in a prominent position above the signature.

(4) If annual accounts are approved that do not comply with the requirements of this Act, every member of the LLP who—

- (a) knew that they did not comply, or was reckless as to whether they complied, and
- (b) failed to take reasonable steps to secure compliance with those requirements or, as the case may be, to prevent the accounts from being approved,

commits an offence.

(5) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.”

## PART 6

### PUBLICATION OF ACCOUNTS AND AUDITOR’S REPORT

#### **Publication of accounts and auditor’s report**

**13.** Section 423 applies to LLPs, modified so that it reads as follows—

**“Duty to circulate copies of annual accounts and auditor’s report**

**423.**—(1) Every LLP must send a copy of its annual accounts and auditor’s report for each financial year to—

- (a) every member of the LLP, and
- (b) every holder of the LLP’s debentures,

not later than the end of the period for filing accounts and the auditor’s report on them, or, if earlier, the date on which it actually delivers its accounts and the auditor’s report on those accounts to the registrar.

(2) Copies need not be sent to a person for whom the LLP does not have a current address.

(3) An LLP has a “current address” for a person if—

- (a) an address has been notified to the LLP by the person as one at which documents may be sent to him, and
- (b) the LLP has no reason to believe that documents sent to him at that address will not reach him.

(4) Where copies are sent out over a period of days, references in this Act to the day on which copies are sent out shall be read as references to the last day of that period.”

#### **Default in sending out copies of accounts and auditor’s report**

**14.** Section 425 applies to LLPs, modified so that it reads as follows—

**“Default in sending out copies of accounts and auditor’s report: offences**

**425.**—(1) If default is made in complying with section 423, an offence is committed by—

- (a) the LLP, and
  - (b) every member of the LLP who is in default.
- (2) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.”

### **Right of member or debenture holder to copies of accounts and auditor’s report**

15. Section 431 applies to LLPs, modified so that it reads as follows—

#### **“Right of member or debenture holder to copies of accounts and auditor’s report**

**431.**—(1) A member of, or holder of debentures of, an LLP is entitled to be provided, on demand and without charge, with a copy of—

- (a) the LLP’s last annual accounts, and
- (b) the auditor’s report on those accounts.

(2) The entitlement under this section is to a single copy of those documents, but that is in addition to any copy to which a person may be entitled under section 423.

(3) If a demand made under this section is not complied with within seven days of receipt by the LLP, an offence is committed by—

- (a) the LLP, and
- (b) every member of the LLP who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.”

### **Requirements in connection with publication of accounts and auditor’s report**

16. Sections 433 to 436 apply to LLPs, modified so that they read as follows—

#### **“Name of signatory to be stated in published copies of accounts**

**433.**—(1) Every copy of the LLP’s balance sheet that is published by or on behalf of the LLP must state the name of the person who signed it on behalf of the members of the LLP.

(2) If a copy is published without the required statement of the signatory’s name, an offence is committed by—

- (a) the LLP, and
- (b) every member of the LLP who is in default.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

#### **Requirements in connection with publication of statutory accounts**

**434.**—(1) If an LLP publishes any of its statutory accounts, they must be accompanied by the auditor’s report on those accounts (unless the LLP is exempt from audit and the members have taken advantage of that exemption).

(2) An LLP that prepares statutory group accounts for a financial year must not publish its statutory individual accounts for that year without also publishing with them its statutory group accounts.

(3) An LLP's "statutory accounts" are its accounts for a financial year as required to be delivered to the registrar under section 441.

(4) If an LLP contravenes any provision of this section, an offence is committed by—

- (a) the LLP, and
- (b) every member of the LLP who is in default.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Requirements in connection with publication of non-statutory accounts**

**435.**—(1) If an LLP publishes non-statutory accounts, it must publish with them a statement indicating—

- (a) that they are not the LLP's statutory accounts,
- (b) whether statutory accounts dealing with any financial year with which the non-statutory accounts purport to deal have been delivered to the registrar, and
- (c) whether an auditor's report has been made on the LLP's statutory accounts for any such financial year, and if so whether the report—
  - (i) was qualified or unqualified, or included a reference to any matters to which the auditor drew attention by way of emphasis without qualifying the report, or
  - (ii) contained a statement under section 498(2) (accounting records or returns inadequate or accounts not agreeing with records and returns), or section 498(3) (failure to obtain necessary information and explanations).

(2) The LLP must not publish with non-statutory accounts the auditor's report on the LLP's statutory accounts.

(3) References in this section to the publication by an LLP of "non-statutory accounts" are to the publication of—

- (a) any balance sheet or profit and loss account relating to, or purporting to deal with, a financial year of the LLP, or
- (b) an account in any form purporting to be a balance sheet or profit and loss account for a group headed by the LLP relating to, or purporting to deal with, a financial year of the LLP,

otherwise than as part of the LLP's statutory accounts.

(4) In subsection (3)(b) "a group headed by the LLP" means a group consisting of the LLP and any other undertaking (regardless of whether it is a subsidiary undertaking of the LLP) other than a parent undertaking of the LLP.

(5) If an LLP contravenes any provision of this section, an offence is committed by—

- (a) the LLP, and
- (b) every member of the LLP who is in default.

(6) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### **Meaning of “publication” in relation to accounts and auditor’s report**

**436.**—(1) This section has effect for the purposes of—

- section 433 (name of signatory to be stated in published copies of accounts),
- section 434 (requirements in connection with publication of statutory accounts), and
- section 435 (requirements in connection with publication of non-statutory accounts).

(2) For the purposes of those sections an LLP is regarded as publishing a document if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.”

## **PART 7**

### **FILING OF ACCOUNTS AND AUDITOR’S REPORT**

#### **Duty to file accounts and reports**

**17.**—(1) Sections 441 to 444(**18**) apply to LLPs, modified so that they read as follow—

#### **“Duty to file accounts and auditor’s report with the registrar**

**441.** The designated members of an LLP must deliver to the registrar for each financial year the accounts and auditor’s report required by—

- section 444 (filing obligations of LLPs subject to small LLPs regime),
- section 445 (filing obligations of medium-sized LLPs), or
- section 446 (filing obligations of large LLPs).

#### **Period allowed for filing accounts**

**442.**—(1) This section specifies the period allowed for the designated members of an LLP to comply with their obligation under section 441 to deliver accounts and the auditor’s report for a financial year to the registrar.

This is referred to in this Act as the “period for filing” those accounts and that report.

(2) The period is nine months after the end of the relevant accounting reference period.

This is subject to the following provisions of this section.

(3) If the relevant accounting reference period is the LLP’s first and is a period of more than twelve months, the period is—

- (a) nine months from the first anniversary of the incorporation of the LLP, or
- (b) three months after the end of the accounting reference period,

whichever last expires.

(4) If the relevant accounting reference period is treated as shortened by virtue of a notice given by the LLP under section 392 (alteration of accounting reference date), the period is—

- (a) that applicable in accordance with the above provisions, or
- (b) three months from the date of the notice under that section,

whichever last expires.

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(18) Section 441 was amended by regulation 6(6), and section 444 by regulation 12, of [S.I. 2008/393](#).

(5) If for any special reason the Secretary of State thinks fit he may, on an application made before the expiry of the period otherwise allowed, by notice in writing to an LLP extend that period by such further period as may be specified in the notice.

(6) In this section “the relevant accounting reference period” means the accounting reference period by reference to which the financial year for the accounts in question was determined.

### **Calculation of period allowed**

**443.**—(1) This section applies for the purposes of calculating the period for filing an LLP’s accounts and auditor’s report which is expressed as a specified number of months from a specified date or after the end of a specified previous period.

(2) Subject to the following provisions, the period ends with the date in the appropriate month corresponding to the specified date or the last day of the specified previous period.

(3) If the specified date, or the last day of the specified previous period, is the last day of a month, the period ends with the last day of the appropriate month (whether or not that is the corresponding date).

(4) If—

(a) the specified date, or the last day of the specified previous period, is not the last day of a month but is the 29th or 30th, and

(b) the appropriate month is February,

the period ends with the last day of February.

(5) “The appropriate month” means the month that is the specified number of months after the month in which the specified date, or the end of the specified previous period, falls.

### **Filing obligations of LLPs subject to small LLPs regime**

**444.**—(1) The designated members of an LLP subject to the small LLPs regime—

(a) must deliver to the registrar for each financial year a copy of a balance sheet drawn up as at the last day of that year, and

(b) may also deliver to the registrar a copy of the LLP’s profit and loss account for that year.

(2) The designated members must also deliver to the registrar a copy of the auditor’s report on the accounts that they deliver.

This does not apply if the LLP is exempt from audit and the members have taken advantage of that exemption.

(3) The copies of accounts and auditors’ reports delivered to the registrar must be copies of the LLP’s annual accounts and auditor’s report, except that where the LLP prepares non-IAS accounts the designated members may deliver to the registrar a copy of a balance sheet drawn up in accordance with regulation 5 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (non-IAS individual accounts for delivery to registrar of companies) (S.I. 2008/[ ]).

These are referred to in this Part as “abbreviated accounts”.

(4) If abbreviated accounts are delivered to the registrar the obligation to deliver a copy of the auditor’s report on the accounts is to deliver a copy of the special auditor’s report required by section 449.

(5) Where the designated members of an LLP subject to the small LLPs regime deliver to the registrar IAS accounts, or non-IAS accounts that are not abbreviated accounts, and in



accordance with this section do not deliver to the registrar a copy of the LLP's profit and loss account, the copy of the balance sheet delivered to the registrar must contain in a prominent position a statement that the LLP's annual accounts have been delivered in accordance with the provisions applicable to LLPs subject to the small LLPs regime.

(6) The copy of the balance sheet delivered to the registrar under this section must state the name of the person who signed it on behalf of the members.

(7) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
- (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.”

(2) Until section 1068 comes fully into force, for subsections (6) and (7) of section 444 as applied to LLPs by paragraph (1) substitute—

“(6) The copy of the balance sheet delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the members under section 414, and
- (b) be signed on behalf of the members by a designated member.

(7) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
- (b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,

or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.”

### **Filing obligations of medium-sized LLPs**

18.—(1) Section 445(19) applies to LLPs, modified so that it reads as follows—

#### **“Filing obligations of medium-sized LLPs**

445.—(1) The designated members of an LLP that qualifies as a medium-sized LLP in relation to a financial year (see sections 465 to 467) must deliver a copy of the LLP's annual accounts to the registrar.

(2) They must also deliver to the registrar a copy of the auditor's report on those accounts.

(3) Where the LLP prepares non-IAS accounts, the designated members may deliver to the registrar a copy of the LLP's annual accounts for the financial year—

- (a) that includes a profit and loss account in which items are combined in accordance with regulation 4 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (exemptions for non-IAS individual accounts of medium-sized LLPs) (S.I. 2008/[ ]), and
- (b) that does not contain items whose omission is authorised by that regulation.

These are referred to in this Part as “abbreviated accounts”.

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(19) Section 445 was amended by regulation 6(8) of S.I. 2008/393 in manner not relevant to these Regulations.

(4) If abbreviated accounts are delivered to the registrar the obligation to deliver a copy of the auditor's report on the accounts is to deliver a copy of the special auditor's report required by section 449.

(5) The copy of the balance sheet delivered to the registrar under this section must state the name of the person who signed it on behalf of the members.

(6) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
- (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.

(7) This section does not apply to LLPs within section 444 (filing obligations of LLPs subject to the small LLPs regime)."

(2) Until section 1068 comes fully into force, for subsections (5) and (6) of section 445 as applied to LLPs by paragraph (1) substitute—

“(5) The copy of the balance sheet delivered to the registrar under this section must—

- (a) state the name of the person who signed it on behalf of the members under section 414, and
- (b) be signed on behalf of the members by a designated member.

(6) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
- (b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,

or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.”

### **Filing obligations of large LLPs**

**19.**—(1) Section 446(20) applies to LLPs, modified so as to read as follows—

#### **“Filing obligations of large LLPs**

**446.**—(1) The designated members of an LLP that does not qualify as small or medium-sized must deliver to the registrar for each financial year of the LLP a copy of the LLP's annual accounts.

(2) The designated members must also deliver to the registrar a copy of the auditor's report on those accounts.

(3) The copy of the balance sheet delivered to the registrar under this section must state the name of the person who signed it on behalf of the members.

(4) The copy of the auditor's report delivered to the registrar under this section must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or

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(20) Section 446 was amended by regulation 6(9) of [S.I. 2008/393](#) in manner not relevant to these Regulations.

- (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.
  - (5) This section does not apply to LLPs within—
    - (a) section 444 (filing obligations of LLPs subject to the small LLPs regime), or
    - (b) section 445 (filing obligations of medium-sized LLPs).”
  - (2) Until section 1068 comes fully into force, for subsections (3) and (4) of section 446 as applied to LLPs by paragraph (1) substitute—
    - “(3) The copy of the balance sheet delivered to the registrar under this section must—
      - (a) state the name of the person who signed it on behalf of the members under section 414, and
      - (b) be signed on behalf of the members by a designated member.
    - (4) The copy of the auditor’s report delivered to the registrar under this section must—
      - (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, and
      - (b) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf,
- or, if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.”

### **Requirements where abbreviated accounts delivered**

**20.**—(1) Section 449 applies to LLPs, modified so that it reads as follow—

#### **“Special auditor’s report where abbreviated accounts delivered**

**449.**—(1) This section applies where—

- (a) the designated members of an LLP deliver abbreviated accounts to the registrar, and
  - (b) the LLP is not exempt from audit (or the members have not taken advantage of any such exemption).
- (2) The designated members must also deliver to the registrar a copy of a special report of the LLP’s auditor stating that in his opinion—
- (a) the LLP is entitled to deliver abbreviated accounts in accordance with the section in question, and
  - (b) the abbreviated accounts to be delivered are properly prepared in accordance with—
    - (i) regulation 5 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]), or
    - (ii) regulation 4 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]).
- (3) The auditor’s report on the LLP’s annual accounts need not be delivered, but—
- (a) if that report was qualified, the special report must set out that report in full together with any further material necessary to understand the qualification, and
  - (b) if that report contained a statement under—
    - (i) section 498(2)(a) or (b) (accounts, records or returns inadequate or accounts not agreeing with records and returns), or

(ii) section 498(3) (failure to obtain necessary information and explanations),  
the special report must set out that statement in full.

(4) The provisions of—

sections 503 to 506 (signature of auditor’s report), and

sections 507 to 509 (offences in connection with auditor’s report),

apply to a special report under this section as they apply to an auditor’s report on the LLP’s annual accounts prepared under Part 16.

(5) If abbreviated accounts are delivered to the registrar, the references in section 434 or 435 (requirements in connection with publication of accounts) to the auditor’s report on the LLP’s annual accounts shall be read as references to the special auditor’s report required by this section.”

(2) Until section 1068 comes fully into force, after subsection (4) of section 449 as applied to LLPs by paragraph (1) insert—

“(4A) The copy of the special report delivered to the registrar under this section must—

(a) be signed by the auditor or (where the auditor is a firm) in the name of the firm by a person authorised to sign on its behalf, or

(b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.”

### **Approval and signing of abbreviated accounts**

**21.** Section 450 is applied to LLPs, modified so as to read as follows—

#### **“Approval and signing of abbreviated accounts**

**450.**—(1) Abbreviated accounts must be approved by the members and signed on behalf of all the members by a designated member.

(2) The signature must be on the balance sheet.

(3) The balance sheet must contain in a prominent position above the signature a statement to the effect that it is prepared in accordance with the special provisions of this Act relating (as the case may be) to LLPs subject to the small LLPs regime or to medium-sized LLPs.

(4) If abbreviated accounts are approved that do not comply with the requirements of regulation 5 of the Small Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]), or (as the case may be) regulation 4 of the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]), every member of the LLP who—

(a) knew that they did not comply, or was reckless as to whether they complied, and

(b) failed to take reasonable steps to prevent them from being approved,

commits an offence.

(5) A person guilty of an offence under subsection (4) is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.”

## **Failure to file accounts and auditor's report**

22.—(1) Sections 451 to 453 apply to LLPs, modified so that they read as follow—

### **“Default in filing accounts and auditor's report: offences**

451.—(1) If the requirements of section 441 (duty to file accounts and auditor's report) are not complied with in relation to an LLP's accounts for a financial year and the auditor's report on those accounts before the end of the period for filing those accounts and that report, every person who immediately before the end of that period was a designated member of the LLP commits an offence.

(2) It is a defence for a person charged with such an offence to prove that he took all reasonable steps for securing that those requirements would be complied with before the end of that period.

(3) It is not a defence to prove that the documents in question were not in fact prepared as required by this Part.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 5 on the standard scale.

### **Default in filing accounts and auditor's report: court order**

452.—(1) If—

- (a) the requirements of section 441 (duty to file accounts and auditor's report) are not complied with in relation to an LLP's accounts for a financial year and the auditor's report on those accounts before the end of the period for filing those accounts and that report, and
- (b) the designated members of the LLP fail to make good the default within 14 days after the service of a notice on them requiring compliance,

the court may, on the application of any member or creditor of the LLP or of the registrar, make an order directing the designated members (or any of them) to make good the default within such time as may be specified in the order.

(2) The court's order may provide that all costs (in Scotland, expenses) of and incidental to the application are to be borne by the members.

### **Civil penalty for failure to file accounts and auditor's report**

453.—(1) Where the requirements of section 441 are not complied with in relation to an LLP's accounts for a financial year and the auditor's report on those accounts before the end of the period for filing those accounts and that report, the LLP is liable to a civil penalty.

This is in addition to any liability of the designated members under section 451.

(2) Regulations 1(3) and 4(2) and (3) of the Companies (Late Filing Penalties) and Limited Liability Partnerships (Filing Periods and Late Filing Penalties) Regulations 2008 (S.I. 2008/497) apply to LLPs with the following modifications—

- (a) references to a company or private company include references to an LLP;
- (b) references to 6th April 2008 are to be read as references to 1st October 2008; and
- (c) the second column of the table in regulation 4(2) (penalties for public companies) is omitted.

(3) The penalty may be recovered by the registrar and is to be paid into the Consolidated Fund.

(4) It is not a defence in proceedings under this section to prove that the documents in question were not in fact prepared as required by this Part.”

(2) At the end of regulation 6(3) of the Companies (Late Filing Penalties) and Limited Liability Partnerships (Filing Periods and Late Filing Penalties) Regulations 2008(21) insert “, but paragraph (1) does not apply to accounts or reports for financial years beginning on or after 1st October 2008.”

## PART 8

### REVISION OF DEFECTIVE ACCOUNTS

#### Revision of defective accounts

23. Sections 454 to 456 apply to LLPs, modified so that they read as follows—

“454.—(1) If it appears to the members of an LLP that the LLP’s annual accounts did not comply with the requirements of this Act, they may prepare revised accounts.

(2) Where copies of the previous accounts have been sent out to members or delivered to the registrar, the revisions must be confined to—

- (a) the correction of those respects in which the previous accounts did not comply with the requirements of this Act, and
- (b) the making of any necessary consequential alterations.

(3) The Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373) apply for the purposes of this section with the following modifications—

- (a) references to a company include references to an LLP; and
- (b) references to a director or to an officer of a company include references to a member of an LLP.

#### Secretary of State’s notice in respect of accounts

455.—(1) This section applies where copies of an LLP’s annual accounts have been delivered to the registrar, and it appears to the Secretary of State that there is, or may be, a question whether the accounts comply with the requirements of this Act.

(2) The Secretary of State may give notice to the members of the LLP indicating the respects in which it appears that such a question arises or may arise.

(3) The notice must specify a period of not less than one month for the members to give an explanation of the accounts or prepare revised accounts.

(4) If at the end of the specified period, or such longer period as the Secretary of State may allow, it appears to the Secretary of State that the members have not—

- (a) given a satisfactory explanation of the accounts, or
  - (b) revised the accounts so as to comply with the requirements of this Act,
- the Secretary of State may apply to the court.

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(21) S.I. 2008/497.

(5) The provisions of this section apply equally to revised annual accounts, in which case they have effect as if the references to revised accounts were references to further revised accounts.

### **Application to court in respect of defective accounts**

**456.**—(1) An application may be made to the court—

- (a) by the Secretary of State, after having complied with section 455, or
- (b) by the Financial Reporting Review Panel,

for a declaration (in Scotland, a declarator) that the annual accounts of an LLP do not comply with the requirements of this Act and for an order requiring the members of the LLP to prepare revised accounts.

(2) Notice of the application, together with a general statement of the matters at issue in the proceedings, shall be given by the applicant to the registrar for registration.

(3) If the court orders the preparation of revised accounts, it may give directions as to—

- (a) the auditing of the accounts, and
- (b) the taking of steps by the members to bring the making of the order to the notice of persons likely to rely on the previous accounts,

and such other matters as the court thinks fit.

(4) If the court finds that the accounts did not comply with the requirements of this Act it may order that all or part of—

- (a) the costs (in Scotland, expenses) of and incidental to the application, and
- (b) any reasonable expenses incurred by the LLP in connection with or in consequence of the preparation of revised accounts,

are to be borne by such of the members as were party to the approval of the defective accounts.

For this purpose every member of the LLP at the time of the approval of the accounts shall be taken to have been a party to the approval unless he shows that he took all reasonable steps to prevent that approval.

(5) Where the court makes an order under subsection (4) it shall have regard to whether the members party to the approval of the defective accounts knew or ought to have known that the accounts did not comply with the requirements of this Act, and it may exclude one or more members from the order or order the payment of different amounts by different members.

(6) On the conclusion of proceedings on an application under this section, the applicant must send to the registrar for registration a copy of the court order or, as the case may be, give notice to the registrar that the application has failed or been withdrawn.

(7) The provisions of this section apply equally to revised annual accounts, in which case they have effect as if the references to revised accounts were references to further revised accounts.”

### **Disclosure of information**

**24.** Sections 458 to 461(22) apply to LLPs, modified so that they read as follows—

**“Disclosure of information by tax authorities**

**458.**—(1) The Commissioners for Her Majesty’s Revenue and Customs may disclose information to the Financial Reporting Review Panel for the purpose of facilitating—

- (a) the taking of steps by the Financial Reporting Review Panel to discover whether there are grounds for an application to the court under section 456 (application in respect of defective accounts etc), or
- (b) a decision by the Financial Reporting Review Panel whether to make such an application.

(2) This section applies despite any statutory or other restriction on the disclosure of information.

Provided that, in the case of personal data within the meaning of the Data Protection Act 1998 (c.29), information is not to be disclosed in contravention of that Act.

(3) Information disclosed to the Financial Reporting Review Panel under this section—

- (a) may not be used except in or in connection with—
  - (i) taking steps to discover whether there are grounds for an application to the court under section 456, or
  - (ii) deciding whether or not to make such an application, or in, or in connection with, proceedings on such an application; and
- (b) must not be further disclosed except—
  - (i) to the person to whom the information relates, or
  - (ii) in, or in connection with, proceedings on any such application to the court.

(4) A person who contravenes subsection (3) commits an offence unless—

- (a) he did not know, and had no reason to suspect, that the information had been disclosed under this section, or
- (b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(5) A person guilty of an offence under subsection (4) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- (b) on summary conviction—
  - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
  - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).

(6) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence.

For this purpose—

- (a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and
- (b) if the body is a company, any shadow director is treated as an officer of the company.



### **Power of the Financial Reporting Review Panel to require documents, information and explanations**

**459.**—(1) This section applies where it appears to the Financial Reporting Review Panel that there is, or may be, a question whether an LLP’s annual accounts comply with the requirements of this Act.

(2) The Financial Reporting Review Panel may require any of the persons mentioned in subsection (3) to produce any document, or to provide him with any information or explanations, that he may reasonably require for the purpose of—

- (a) discovering whether there are grounds for an application to the court under section 456, or
- (b) deciding whether to make such an application.

(3) Those persons are—

- (a) the LLP;
- (b) any member, employee, or auditor of the LLP;
- (c) any persons who fell within paragraph (b) at a time to which the document or information required by the Financial Reporting Review Panel relates.

(4) If a person fails to comply with such a requirement, the Financial Reporting Review Panel may apply to the court.

(5) If it appears to the court that the person has failed to comply with a requirement under subsection (2), it may order the person to take such steps as it directs for securing that the documents are produced or the information or explanations are provided.

(6) A statement made by a person in response to a requirement under subsection (2) or an order under subsection (5) may not be used in evidence against him in any criminal proceedings.

(7) Nothing in this section compels any person to disclose documents or information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

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

### **Restrictions on disclosure of information obtained under compulsory powers**

**460.**—(1) This section applies to information (in whatever form) obtained in pursuance of a requirement or order under section 459 (power of Financial Reporting Review Panel to require documents etc) that relates to the private affairs of an individual or to any particular business.

(2) No such information may, during the lifetime of that individual or so long as that business continues to be carried on, be disclosed without the consent of that individual or the person for the time being carrying on that business.

(3) This does not apply—

- (a) to disclosure permitted by section 461 (permitted disclosure of information obtained under compulsory powers), or
- (b) to the disclosure of information that is or has been available to the public from another source.

(4) A person who discloses information in contravention of this section commits an offence, unless—

- (a) he did not know, and had no reason to suspect, that the information had been disclosed under section 459, or
  - (b) he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.
- (5) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
  - (b) on summary conviction—
    - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
    - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months, or to a fine not exceeding the statutory maximum (or both).
- (6) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence.

For this purpose—

- (a) any person who purports to act as director, manager or secretary of the body is treated as an officer of the body, and
- (b) if the body is a company, any shadow director is treated as an officer of the company.

#### **Permitted disclosure of information obtained under compulsory powers**

**461.**—(1) The prohibition in section 460 of the disclosure of information obtained in pursuance of a requirement or order under section 459 (power of Financial Reporting Review Panel to require documents etc) that relates to the private affairs of an individual or to any particular business has effect subject to the following exceptions.

(2) It does not apply to the disclosure of information for the purpose of facilitating the carrying out by the Financial Reporting Review Panel of its functions under section 456.

(3) It does not apply to disclosure to—

- (a) the Secretary of State,
- (b) the Department of Enterprise, Trade and Investment for Northern Ireland,
- (c) the Treasury,
- (d) the Bank of England,
- (e) the Financial Services Authority, or
- (f) the Commissioners for Her Majesty's Revenue and Customs.

(4) It does not apply to disclosure—

- (a) for the purpose of assisting the body known as the Professional Oversight Board established under the articles of association of the Financial Reporting Council Limited (registered number 02486368) to exercise its functions under Part 42 of this Act;
- (b) with a view to the institution of, or otherwise for the purposes of, disciplinary proceedings relating to the performance by an accountant or auditor of his professional duties;
- (c) for the purpose of enabling or assisting the Secretary of State or the Treasury to exercise any of their functions under any of the following—

- (i) the Companies Acts,
  - (ii) Part 5 of the Criminal Justice Act 1993 (c.36) (insider dealing),
  - (iii) the Insolvency Act 1986 (c.45) or the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)),
  - (iv) the Company Directors Disqualification Act 1986 (c.46) or the Company Directors Disqualification (Northern Ireland) Order 2002 (S.I. 2002/3150 (N.I. 4)),
  - (v) the Financial Services and Markets Act 2000 (c.8);
- (d) for the purpose of enabling or assisting the Department of Enterprise, Trade and Investment for Northern Ireland to exercise any powers conferred on it by the enactments relating to companies, directors' disqualification or insolvency;
- (e) for the purpose of enabling or assisting the Bank of England to exercise its functions;
- (f) for the purpose of enabling or assisting the Commissioners for Her Majesty's Revenue and Customs to exercise their functions;
- (g) for the purpose of enabling or assisting the Financial Services Authority to exercise its functions under any of the following—
- (i) the legislation relating to friendly societies or to industrial and provident societies,
  - (ii) the Building Societies Act 1986 (c.53),
  - (iii) Part 7 of the Companies Act 1989 (c.40),
  - (iv) the Financial Services and Markets Act 2000; or
- (h) in pursuance of any Community obligation.
- (5) It does not apply to disclosure to a body exercising functions of a public nature under legislation in any country or territory outside the United Kingdom that appear to the Financial Reporting Review Panel to be similar to its functions under section 456 for the purpose of enabling or assisting that body to exercise those functions.
- (6) In determining whether to disclose information to a body in accordance with subsection (5), the Financial Reporting Review Panel must have regard to the following considerations—
- (a) whether the use which the body is likely to make of the information is sufficiently important to justify making the disclosure;
  - (b) whether the body has adequate arrangements to prevent the information from being used or further disclosed other than—
    - (i) for the purposes of carrying out the functions mentioned in that subsection, or
    - (ii) for other purposes substantially similar to those for which information disclosed to the Financial Reporting Review Panel could be used or further disclosed.
- (7) Nothing in this section authorises the making of a disclosure in contravention of the Data Protection Act 1998 (c.29).”

## PART 9

### ACCOUNTS: SUPPLEMENTARY PROVISIONS

#### Accounting standards

25. Section 464 applies to LLPs, modified so that it reads as follows—

##### “Accounting standards

**464.**—(1) In this Part “accounting standards” means statements of standard accounting practice issued by the body known as the Accounting Standards Board, as prescribed by the Accounting Standards (Prescribed Body) Regulations 2008 (S.I. 2008/651).

(2) References in this Part to accounting standards applicable to an LLP’s annual accounts are to such standards as are, in accordance with their terms, relevant to the LLP’s circumstances and to the accounts.”

#### Medium-sized LLPs

26. Sections 465 to 467(23) apply to LLPs, modified so that they read as follows—

##### “LLPs qualifying as medium-sized: general

**465.**—(1) An LLP qualifies as medium-sized in relation to its first financial year if the qualifying conditions are met in that year.

(2) An LLP qualifies as medium-sized in relation to a subsequent financial year—

- (a) if the qualifying conditions are met in that year and the preceding financial year;
- (b) if the qualifying conditions are met in that year and the LLP qualified as medium-sized in relation to the preceding financial year;
- (c) if the qualifying conditions were met in the preceding financial year and the LLP qualified as medium-sized in relation to that year.

(3) The qualifying conditions are met by an LLP in a year in which it satisfies two or more of the following requirements—

---

1.	Turnover	Not more than £25.9 million
2.	Balance sheet total	Not more than £12.9 million
3.	Number of employees	Not more than 250

---

(4) For a period that is an LLP’s financial year but not in fact a year the maximum figures for turnover must be proportionately adjusted.

(5) The balance sheet total means the aggregate of the amounts shown as assets in the LLP’s balance sheet.

(6) The number of employees means the average number of persons employed by the LLP in the year, determined as follows—

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(23) Sections 465(3) and 466(4) were amended by regulation 4 of S.I. 2008/393, and section 467 was amended by regulation 3(3) of S.I. 2007/2932 and by regulation 7 of S.I. 2008/393 (in the latter case in manner not relevant to these Regulations).

- (a) find for each month in the financial year the number of persons employed under contracts of service by the LLP in that month (whether throughout the month or not),
  - (b) add together the monthly totals, and
  - (c) divide by the number of months in the financial year.
- (7) This section is subject to section 466 (LLPs qualifying as medium-sized: parent LLPs).

**LLPs qualifying as medium-sized: parent LLPs**

**466.**—(1) A parent LLP qualifies as a medium-sized LLP in relation to a financial year only if the group headed by it qualifies as a medium-sized group.

(2) A group qualifies as medium-sized in relation to the parent LLP’s first financial year if the qualifying conditions are met in that year.

(3) A group qualifies as medium-sized in relation to a subsequent financial year of the parent LLP—

- (a) if the qualifying conditions are met in that year and the preceding financial year;
- (b) if the qualifying conditions are met in that year and the group qualified as medium-sized in relation to the preceding financial year;
- (c) if the qualifying conditions were met in the preceding financial year and the group qualified as medium-sized in relation to that year.

(4) The qualifying conditions are met by a group in a year in which it satisfies two or more of the following requirements—

1.	Aggregate turnover	Not more than £25.9 million net (or £31.1 million gross)
2.	Aggregate balance sheet total	Not more than £12.9 million net (or £15.5 million gross)
3.	Aggregate number of employees	Not more than 250

(5) The aggregate figures are ascertained by aggregating the relevant figures determined in accordance with section 465 for each member of the group.

(6) In relation to the aggregate figures for turnover and balance sheet total—

“net” means after any set-offs and other adjustments made to eliminate group transactions—

- (a) in the case of non-IAS accounts, in accordance with Schedule 3 to the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008[ ]),
- (b) in the case of IAS accounts, in accordance with international accounting standards; and

“gross” means without those set-offs and other adjustments.

An LLP may satisfy any relevant requirement on the basis of either the net or the gross figure.

(7) The figures for each subsidiary undertaking shall be those included in its individual accounts for the relevant financial year, that is—

- (a) if its financial year ends with that of the parent LLP, that financial year, and

- (b) if not, its financial year ending last before the end of the financial year of the parent LLP.

If those figures cannot be obtained without disproportionate expense or undue delay, the latest available figures shall be taken.

### **LLPs excluded from being treated as medium-sized**

**467.**—(1) An LLP is not entitled to take advantage of any of the provisions of this Part relating to LLPs qualifying as medium-sized if it was at any time within the financial year in question—

- (a) an LLP whose securities are admitted to trading on a regulated market in an EEA State,
  - (b) an LLP that—
    - (i) has permission under Part 4 of the Financial Services and Markets Act 2000 (c.8) to carry on a regulated activity, or
    - (ii) carries on insurance market activity, or
  - (c) a member of an ineligible group.
- (2) A group is ineligible if any of its members is—
- (a) a public company,
  - (b) a body corporate (other than a company) whose shares are admitted to trading on a regulated market,
  - (c) a person (other than a small company or small LLP) who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on a regulated activity,
  - (d) a small company or small LLP that is an authorised insurance company, a banking company or banking LLP, an e-money issuer, a MiFID investment firm or a UCITS management company, or
  - (e) a person who carries on insurance market activity.

(3) An LLP is a small LLP for the purposes of subsection (2) if it qualified as small in relation to its last financial year ending on or before the end of the financial year in question.”

### **General power to make further provision about accounts**

**27.** Section 468 applies to LLPs, modified so that it reads as follows—

#### **“General power to make further provision about accounts**

**468.**—(1) The Secretary of State may make provision by regulations about—

- (a) the accounts that LLPs are required to prepare;
- (b) the categories of LLPs required to prepare accounts of any description;
- (c) the form and content of the accounts that LLPs are required to prepare;
- (d) the obligations of LLPs and others as regards—
  - (i) the approval of accounts,
  - (ii) the sending of accounts to members and others,
  - (iii) the delivery of copies of accounts to the registrar, and
  - (iv) the publication of accounts.

(2) The regulations may amend this Part by adding, altering or repealing provisions.

(3) But they must not amend (other than consequentially)—

(a) section 393 (accounts to give true and fair view), or

(b) the provisions of Chapter 11 (revision of defective accounts and reports).

(4) The regulations may create criminal offences in cases corresponding to those in which an offence is created by an existing provision of this Part.

The maximum penalty for any such offence may not be greater than is provided in relation to an offence under the existing provision.

(5) The regulations may provide for civil penalties in circumstances corresponding to those within section 453(1) (civil penalty for failure to file accounts and reports).

The provisions of section 453(3) and (4) apply in relation to any such penalty.”

### **Other supplementary provisions**

**28.** Section 469 applies to LLPs, modified so that it reads as follows—

#### **“Preparation and filing of accounts in euros**

**469.**—(1) The amounts set out in the annual accounts of an LLP may also be shown in the same accounts translated into euros.

(2) When complying with section 441 (duty to file accounts and auditor’s report), the designated members of an LLP may deliver to the registrar an additional copy of the LLP’s annual accounts in which the amounts have been translated into euros.

(3) In both cases—

(a) the amounts must have been translated at the exchange rate prevailing on the date to which the balance sheet is made up, and

(b) that rate must be disclosed in the notes to the accounts.

(4) For the purposes of sections 434 and 435 (requirements in connection with published accounts) any additional copy of the LLP’s annual accounts delivered to the registrar under subsection (2) above shall be treated as statutory accounts of the LLP.

In the case of such a copy, references in those sections to the auditor’s report on the LLP’s annual accounts shall be read as references to the auditor’s report on the annual accounts of which it is a copy.”

### **Meaning of “annual accounts”**

**29.** Section 471 applies to LLPs, modified so that it reads as follows—

#### **“Meaning of “annual accounts” and related expressions**

**471.**—(1) In this Part an LLP’s “annual accounts”, in relation to a financial year, means—

(a) the LLP’s individual accounts for that year (see section 394), and

(b) any group accounts prepared by the LLP for that year (see sections 398 and 399).

This is subject to section 408 (option to omit individual profit and loss account from annual accounts where information given in group accounts).

(2) In this Part an LLP’s “annual accounts and auditor’s report” for a financial year are—

- (a) its annual accounts,
- (b) the auditor’s report on those accounts (unless the LLP is exempt from audit).”

### Notes to the accounts

**30.** Section 472 applies to LLPs, modified so that it reads as follows—

#### “Notes to the accounts

**472.**—(1) Information required by this Part to be given in notes to an LLP’s annual accounts may be contained in the accounts or in a separate document annexed to the accounts.

(2) References in this Part to an LLP’s annual accounts, or to a balance sheet or profit and loss account, include notes to the accounts giving information which is required by any provision of this Act or international accounting standards, and required or allowed by any such provision to be given in a note to LLP accounts.”

### Parliamentary procedure for regulations under section 468

**31.** Section 473 applies to LLPs, modified so that it reads as follows—

#### “Parliamentary procedure for regulations under section 468

**473.**—(1) This section applies to regulations under section 468 (general power to make further provision about accounts).

(2) Any such regulations may make consequential amendments or repeals in other provisions of this Act, or in other enactments.

(3) Regulations that—

- (a) restrict the classes of LLP which have the benefit of any exemption, exception or special provision,
- (b) require additional matter to be included in a document of any class, or
- (c) otherwise render the requirements of this Part more onerous,

are subject to affirmative resolution procedure.

(4) Otherwise, the regulations are subject to negative resolution procedure.”

### Minor definitions

**32.** Section 474(24) applies to LLPs, modified so that it reads as follows—

#### “Minor definitions

**474.**—(1) In this Part—

“authorised insurance company” means a person (whether incorporated or not) who has permission under Part 4 of the Financial Services and Markets Act 2000 (c.8) to effect or carry out contracts of insurance, but does not include a friendly society within the meaning of the Friendly Societies Act 1992 (c.40);

“banking company” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits, other than—

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(24) Section 474 was amended by regulation 3(4) of [S.I. 2007/2932](#).



- (a) a person who is not a company, and
- (b) a person who has such permission only for the purpose of carrying on another regulated activity in accordance with permission under that Part;

“banking LLP” means an LLP which has permission under Part 4 of the Financial Services and Markets Act 2000 to accept deposits (but does not include such an LLP which has permission to accept deposits only for the purpose of carrying on another regulated activity in accordance with that permission);

“e-money issuer” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to carry on the activity of issuing electronic money within the meaning of article 9B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

“Financial Reporting Review Panel” means the body known as the Financial Reporting Review Panel established under the articles of association of the Financial Reporting Council Limited (registered number 02486368);

“group” means a parent undertaking and its subsidiary undertakings;

“IAS Regulation” means EC Regulation No. 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards;

“included in the consolidation”, in relation to group accounts, or “included in consolidated group accounts”, means that the undertaking is included in the accounts by the method of full (and not proportional) consolidation, and references to an undertaking excluded from consolidation shall be construed accordingly;

“insurance company” means—

- (a) an authorised insurance company, or
- (b) any other person (whether incorporated or not) who—
  - (i) carries on insurance market activity (within the meaning of section 316(3) of the Financial Services and Markets Act 2000), or
  - (ii) may effect or carry out contracts of insurance under which the benefits provided by that person are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle,

but does not include a friendly society within the meaning of the Friendly Societies Act 1992;

“international accounting standards” means the international accounting standards, within the meaning of the IAS Regulation, adopted from time to time by the European Commission in accordance with that Regulation;

“LLP” means a limited liability partnership formed and registered under the Limited Liability Partnerships Act 2000 (c.12) or the [Limited Liability Partnerships Act \(N.I.\) 2002 \(2002 \(N.I.\) \(c.12\)\)](#);

“MiFID investment firm” means an investment firm within the meaning of Article 4.1.1 of Directive [2004/39/EC](#) of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments other than—

- (a) an LLP to which that Directive does not apply by virtue of Article 2 of that Directive,
- (b) an LLP which is an exempt investment firm within the meaning of regulation 4A(3) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007 (S.I. 2007/126), and

- (c) any other LLP which fulfils all the requirements set out in regulation 4C(3) of those Regulations;

“profit and loss account”, in relation to an LLP that prepares IAS accounts, includes an income statement or other equivalent financial statement required to be prepared by international accounting standards;

“regulated activity” has the meaning given in section 22 of the Financial Services and Markets Act 2000, except that it does not include activities of the kind specified in any of the following provisions of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#))—

- (a) article 25A (arranging regulated mortgage contracts),
- (b) article 25B (arranging regulated home reversion plans),
- (c) article 25C (arranging regulated home purchase plans),
- (d) article 39A (assisting administration and performance of a contract of insurance),
- (e) article 53A (advising on regulated mortgage contracts),
- (f) article 53B (advising on regulated home reversion plans),
- (g) article 53C (advising on regulated home purchase plans),
- (h) article 21 (dealing as agent), article 25 (arranging deals in investments) or article 53 (advising on investments) where the activity concerns relevant investments that are not contractually based investments (within the meaning of article 3 of that Order), or
- (i) article 64 (agreeing to carry on a regulated activity of the kind mentioned in paragraphs (a) to (h));

“turnover”, in relation to an LLP, means the amounts derived from the provision of goods and services falling within the LLP’s ordinary activities, after deduction of—

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

“UCITS management company” has the meaning given by the Glossary forming part of the Handbook made by the Financial Services Authority under the Financial Services and Markets Act 2000 ([c.8](#));

“wholly-owned subsidiary” has the meaning given in section 1159(2) of this Act.

(2) In subsection (1)—

- (a) the definitions of “banking company” and “banking LLP”, and
- (b) references in the definition of “insurance company” to contracts of insurance and to the effecting or carrying out of such contracts,

must be read with—

- (i) section 22 of the Financial Services and Markets Act 2000,
- (ii) the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 ([S.I. 2001/544](#)), and
- (iii) Schedule 2 to that Act.”

## PART 10

### AUDIT REQUIREMENT

#### Requirement for audited accounts

33. Section 475 applies to LLPs, modified so that it reads as follows—

##### “Requirement for audited accounts

475.—(1) An LLP’s annual accounts for a financial year must be audited in accordance with this Part unless the LLP is exempt from audit under—

- (a) section 477 (small LLPs), or
- (b) section 480 (dormant LLPs).

(2) An LLP is not entitled to any such exemption unless its balance sheet contains a statement by the members to that effect.

(3) An LLP is not entitled to exemption under any of the provisions mentioned in subsection (1)(a) unless its balance sheet contains a statement by the members to the effect that the members acknowledge their responsibilities for complying with the requirements of this Act with respect to accounting records and the preparation of accounts.

(4) The statement required by subsection (2) or (3) must appear on the balance sheet above the signature required by section 414.”

#### Exemption from audit: small LLPs

34. Sections 477 to 479(25) apply to LLPs, modified so that they read as follows—

##### “Small LLPs: conditions for exemption from audit

477.—(1) An LLP that meets the following conditions in respect of a financial year is exempt from the requirements of this Act relating to the audit of accounts for that year.

(2) The conditions are—

- (a) that the LLP qualifies as a small LLP in relation to that year,
- (b) that its turnover in that year is not more than £6.5 million, and
- (c) that its balance sheet total for that year is not more than £3.26 million.

(3) For a period which is an LLP’s financial year but not in fact a year the maximum figure for turnover shall be proportionately adjusted.

(4) For the purposes of this section—

- (a) whether an LLP qualifies as a small LLP shall be determined in accordance with section 382(1) to (6), and
- (b) “balance sheet total” has the same meaning as in that section.

(5) This section has effect subject to—

- section 475(2) and (3) (requirements as to statements to be contained in balance sheet),
- section 478 (LLPs excluded from small LLPs exemption), and
- section 479 (availability of small LLPs exemption in case of group LLP).

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(25) Sections 477(2) and 479(2) were amended by regulation 5 of S.I. 2008/393, and section 478 was amended by regulation 3(5) of S.I. 2007/2932.

### LLPs excluded from small LLPs exemption

**478.** An LLP is not entitled to the exemption conferred by section 477 (small LLPs) if it was at any time within the financial year in question—

- (a) an LLP whose securities are admitted to trading on a regulated market in an EEA State,
- (b) an LLP that—
  - (i) is an authorised insurance company, a banking LLP, an e-money issuer, a MiFID investment firm or a UCITS management company, or
  - (ii) carries on insurance market activity, or
- (c) an employers' association as defined in section 122 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c.52) or Article 4 of the Industrial Relations (Northern Ireland) Order 1992 (S.I. 1992/807 (N.I. 5)).

### Availability of small LLPs exemption in case of group LLP

**479.**—(1) An LLP is not entitled to the exemption conferred by section 477 (small LLPs) in respect of a financial year during any part of which it was a group LLP unless—

- (a) the conditions specified in subsection (2) below are met, or
  - (b) subsection (3) applies.
- (2) The conditions are—
- (a) that the group—
    - (i) qualifies as a small group in relation to that financial year, and
    - (ii) was not at any time in that year an ineligible group;
  - (b) that the group's aggregate turnover in that year is not more than £6.5 million net (or £7.8 million gross);
  - (c) that the group's aggregate balance sheet total for that year is not more than £3.26 million net (or £3.9 million gross).
- (3) An LLP is not excluded by subsection (1) if, throughout the whole of the period or periods during the financial year when it was a group LLP, it was both a subsidiary undertaking and dormant.
- (4) In this section—
- (a) "group LLP" means an LLP that is a parent LLP or a subsidiary undertaking, and
  - (b) "the group", in relation to a group LLP, means that LLP together with all its associated undertakings.

For this purpose undertakings are associated if one is a subsidiary undertaking of the other or both are subsidiary undertakings of a third undertaking.

- (5) For the purposes of this section—
- (a) whether a group qualifies as small shall be determined in accordance with section 383 (LLPs qualifying as small: parent LLPs);
  - (b) "ineligible group" has the meaning given by section 384(2) and (3);
  - (c) a group's aggregate turnover and aggregate balance sheet total shall be determined as for the purposes of section 383;
  - (d) "net" and "gross" have the same meaning as in that section;

- (e) an LLP may meet any relevant requirement on the basis of either the gross or the net figure.
- (6) The provisions mentioned in subsection (5) apply for the purposes of this section as if all the bodies corporate in the group were LLPs or companies.”

### **Exemption from audit: dormant LLPs**

**35.** Sections 480 and 481(26) apply to LLPs, modified so that they read as follows—

#### **“Dormant LLPs: conditions for exemption from audit**

**480.**—(1) An LLP is exempt from the requirements of this Act relating to the audit of accounts in respect of a financial year if—

- (a) it has been dormant since its formation, or
  - (b) it has been dormant since the end of the previous financial year and the following conditions are met.
- (2) The conditions are that the LLP—
- (a) as regards its individual accounts for the financial year in question—
    - (i) is entitled to prepare accounts in accordance with the small LLPs regime (see sections 381 to 384), or
    - (ii) would be so entitled but for having been a member of an ineligible group, and
  - (b) is not required to prepare group accounts for that year.
- (3) This section has effect subject to—
- section 475(2) and (3) (requirements as to statements to be contained in balance sheet), and
  - section 481 (LLPs excluded from dormant LLPs exemption).

#### **LLPs excluded from dormant LLPs exemption**

**481.** An LLP is not entitled to the exemption conferred by section 480 (dormant LLPs) if it was at any time within the financial year in question an LLP that—

- (a) is an authorised insurance company, a banking LLP, an e-money issuer, a MiFID investment firm or a UCITS management company, or
- (b) carries on insurance market activity.”

## **PART 11**

### **APPOINTMENT OF AUDITORS**

#### **Appointment of auditors**

**36.** Sections 485 to 488 apply to LLPs, modified so that they read as follows—

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(26) Section 481 was amended by regulation 3(6) of [S.I. 2007/2932](#).

**“Appointment of auditors: general**

**485.**—(1) An auditor or auditors of an LLP must be appointed for each financial year of the LLP, unless the designated members reasonably determine otherwise on the ground that audited accounts are unlikely to be required.

(2) For each financial year for which an auditor or auditors is or are to be appointed (other than the LLP’s first financial year), the appointment must be made before the end of the period of 28 days beginning with—

- (a) the end of the time allowed for sending out copies of the LLP’s annual accounts and auditor’s report for the previous financial year (see section 423), or
- (b) if earlier, the day on which copies of the LLP’s annual accounts and auditor’s report for the previous financial year are sent out under section 423.

This is the “period for appointing auditors”.

(3) The designated members may appoint an auditor or auditors—

- (a) at any time before the LLP’s first period for appointing auditors,
- (b) following a period during which the LLP (being exempt from audit) did not have any auditor, at any time before the LLP’s next period for appointing auditors, or
- (c) to fill a casual vacancy in the office of auditor.

(4) The members may appoint an auditor or auditors—

- (a) during a period for appointing auditors,
- (b) if the LLP should have appointed an auditor or auditors during a period for appointing auditors but failed to do so, or
- (c) where the designated members had power to appoint under subsection (3) but have failed to make an appointment.

(5) An auditor or auditors of an LLP may only be appointed—

- (a) in accordance with this section, or
- (b) in accordance with section 486 (default power of Secretary of State).

This is without prejudice to any deemed re-appointment under section 487.

**Appointment of auditor: default power of Secretary of State**

**486.**—(1) If an LLP fails to appoint an auditor or auditors in accordance with section 485, the Secretary of State may appoint one or more persons to fill the vacancy.

(2) Where subsection (2) of that section applies and the LLP fails to make the necessary appointment before the end of the period for appointing auditors, the LLP must within one week of the end of that period give notice to the Secretary of State of his power having become exercisable.

(3) If an LLP fails to give the notice required by this section, an offence is committed by—

- (a) the LLP, and
- (b) every designated member who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.

### **Term of office of auditors**

**487.**—(1) An auditor or auditors of an LLP hold office in accordance with the terms of their appointment, subject to the requirements that—

- (a) they do not take office until any previous auditor or auditors cease to hold office, and
- (b) they cease to hold office at the end of the next period for appointing auditors unless re-appointed.

(2) Where no auditor has been appointed by the end of the next period for appointing auditors, any auditor in office immediately before that time is deemed to be re-appointed at that time, unless—

- (a) the LLP agreement requires actual re-appointment, or
- (b) the deemed re-appointment is prevented by the members under section 488, or
- (c) the members have determined that he should not be re-appointed, or
- (d) the designated members have determined that no auditor or auditors should be appointed for the financial year in question.

(3) This is without prejudice to the provisions of this Part as to removal and resignation of auditors.

(4) No account shall be taken of any loss of the opportunity of deemed reappointment under this section in ascertaining the amount of any compensation or damages payable to an auditor on his ceasing to hold office for any reason.

### **Prevention by members of deemed re-appointment of auditor**

**488.**—(1) An auditor of an LLP is not deemed to be re-appointed under section 487(2) if the LLP has received notices under this section from members representing at least the requisite percentage of the total voting rights in the LLP that the auditor should not be re-appointed.

(2) The “requisite percentage” is 5%, or such lower percentage as is specified for this purpose in the LLP agreement.

(3) A notice under this section—

- (a) may be in hard copy or electronic form,
- (b) must be authenticated by the person or persons giving it, and
- (c) must be received by the LLP before the end of the accounting reference period immediately preceding the time when the deemed reappointment would have effect.”

### **Fixing of auditor remuneration**

**37.** Section 492 applies to LLPs, modified so that it reads as follows—

#### **“Fixing of auditor’s remuneration**

**492.**—(1) The remuneration of an auditor appointed by the LLP must be fixed by the designated members or in such manner as the members of the LLP may determine.

(2) The remuneration of an auditor appointed by the Secretary of State must be fixed by the Secretary of State.

(3) For the purposes of this section “remuneration” includes sums paid in respect of expenses.

(4) This section applies in relation to benefits in kind as to payments of money.”

### **Disclosure of auditor remuneration**

**38.** Section 494 applies to LLPs, modified so that it reads as follows—

#### **“Disclosure of services provided by auditor or associates and related remuneration**

**494.** Parts 1 and 2 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008 (S.I. 2008/489) apply to LLPs with the following modifications—

- (a) in regulation 3(1), omit the definition of “principal terms”;
- (b) references to 6th April 2008 are to be read as references to 1st October 2008;
- (c) references to a company include references to an LLP; and
- (d) except in paragraph 3 of Schedule 1, references to a director or to an officer of a company include references to a member of an LLP.”

## **PART 12**

### **FUNCTIONS OF AUDITOR**

#### **Auditor’s report**

**39.** Section 495 applies to LLPs, modified so that it reads as follows—

#### **“Auditor’s report on LLP’s annual accounts**

**495.—**(1) An LLP’s auditor must make a report to the LLP’s members on all annual accounts of the LLP of which copies are, during his tenure of office to be sent out to members under section 423.

- (2) The auditor’s report must include—
  - (a) an introduction identifying the annual accounts that are the subject of the audit and the financial reporting framework that has been applied in their preparation, and
  - (b) a description of the scope of the audit identifying the auditing standards in accordance with which the audit was conducted.
- (3) The report must state clearly whether, in the auditor’s opinion, the annual accounts—
  - (a) give a true and fair view—
    - (i) in the case of an individual balance sheet, of the state of affairs of the LLP as at the end of the financial year,
    - (ii) in the case of an individual profit and loss account, of the profit or loss of the LLP for the financial year,
    - (iii) in the case of group accounts, of the state of affairs as at the end of the financial year and of the profit or loss for the financial year of the undertakings included in the consolidation as a whole, so far as concerns members of the LLP;



(b) have been properly prepared in accordance with the relevant financial reporting framework; and

(c) have been prepared in accordance with the requirements of this Act.

Expressions used in this subsection that are defined for the purposes of Part 15 (see section 474) have the same meaning as in that Part.

(4) The auditor's report—

(a) must be either unqualified or qualified, and

(b) must include a reference to any matters to which the auditor wishes to draw attention by way of emphasis without qualifying the report.”

### **Duties and rights of auditors**

40. Sections 498 to 502(27) apply to LLPs, modified so that they read as follows—

#### **“Duties of auditor**

**498.**—(1) An LLP's auditor, in preparing his report, must carry out such investigations as will enable him to form an opinion as to—

(a) whether adequate accounting records have been kept by the LLP and returns adequate for their audit have been received from branches not visited by him, and

(b) whether the LLP's individual accounts are in agreement with the accounting records and returns.

(2) If the auditor is of the opinion—

(a) that adequate accounting records have not been kept, or that returns adequate for their audit have not been received from branches not visited by him, or

(b) that the LLP's individual accounts are not in agreement with the accounting records and returns,

the auditor shall state that fact in his report.

(3) If the auditor fails to obtain all the information and explanations which, to the best of his knowledge and belief, are necessary for the purposes of his audit, he shall state that fact in his report.

(4) If the members of the LLP have prepared accounts in accordance with the small LLPs regime and in the auditor's opinion they were not entitled so to do, the auditor shall state that fact in his report.

#### **Auditor's general right to information**

**499.**—(1) An auditor of an LLP—

(a) has a right of access at all times to the LLP's books, accounts and vouchers (in whatever form they are held), and

(b) may require any of the following persons to provide him with such information or explanations as he thinks necessary for the performance of his duties as auditor.

(2) Those persons are—

(a) any member or employee of the LLP;

- (b) any person holding or accountable for any of the LLP's books, accounts or vouchers;
- (c) any subsidiary undertaking of the LLP which is a body corporate incorporated in the United Kingdom;
- (d) any officer, employee or auditor of any such subsidiary undertaking or any person holding or accountable for any books, accounts or vouchers of any such subsidiary undertaking;
- (e) any person who fell within any of paragraphs (a) to (d) at a time to which the information or explanations required by the auditor relates or relate.

(3) A statement made by a person in response to a requirement under this section may not be used in evidence against him in criminal proceedings except proceedings for an offence under section 501.

(4) Nothing in this section compels a person to disclose information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

#### **Auditor's right to information from overseas subsidiaries**

**500.**—(1) Where a parent LLP has a subsidiary undertaking that is not a body corporate incorporated in the United Kingdom, the auditor of the parent LLP may require it to obtain from any of the following persons such information or explanations as he may reasonably require for the purposes of his duties as auditor.

- (2) Those persons are—
  - (a) the undertaking;
  - (b) any officer, employee or auditor of the undertaking;
  - (c) any person holding or accountable for any of the undertaking's books, accounts or vouchers;
  - (d) any person who fell within paragraph (b) or (c) at a time to which the information or explanations relates or relate.

(3) If so required, the parent LLP must take all such steps as are reasonably open to it to obtain the information or explanations from the person concerned.

(4) A statement made by a person in response to a requirement under this section may not be used in evidence against him in criminal proceedings except proceedings for an offence under section 501.

(5) Nothing in this section compels a person to disclose information in respect of which a claim to legal professional privilege (in Scotland, to confidentiality of communications) could be maintained in legal proceedings.

#### **Auditor's right to information: offences**

**501.**—(1) A person commits an offence who knowingly or recklessly makes to an auditor of an LLP a statement (oral or written) that—

- (a) conveys or purports to convey any information or explanations which the auditor requires, or is entitled to require, under section 499, and
- (b) is misleading, false or deceptive in a material particular.

(2) A person guilty of an offence under subsection (1) is liable—

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both);
- (b) on summary conviction—
  - (i) in England and Wales, to imprisonment for a term not exceeding twelve months or to a fine not exceeding the statutory maximum (or both);
  - (ii) in Scotland or Northern Ireland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum (or both).
- (3) A person who fails to comply with a requirement under section 499 without delay commits an offence unless it was not reasonably practicable for him to provide the required information or explanations.
- (4) If a parent LLP fails to comply with section 500, an offence is committed by—
  - (a) the LLP, and
  - (b) every member of the LLP who is in default.
- (5) A person guilty of an offence under subsection (3) or (4) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (6) Nothing in this section affects any right of an auditor to apply for an injunction (in Scotland, an interdict or an order for specific performance) to enforce any of his rights under section 499 or 500.

#### **Auditor's rights in relation to meetings**

- 502.**—(1) An LLP's auditor is entitled—
- (a) to receive all notices of, and other communications relating to, any meeting which a member of the LLP is entitled to receive, where any part of the business of the meeting concerns them as auditors,
  - (b) to attend any meeting of the LLP where any part of the business of the meeting concerns them as auditors, and
  - (c) to be heard at any meeting which he attends on any part of the business of the meeting which concerns him as auditor.
- (2) Where the auditor is a firm, the right to attend or be heard at a meeting is exercisable by an individual authorised by the firm in writing to act as its representative at the meeting.”

#### **Signature of auditor's report**

- 41.** Sections 503 to 506 apply to LLPs, modified so that they read as follows—

##### **“Signature of auditor's report**

- 503.**—(1) The auditor's report must state the name of the auditor and be signed and dated.
- (2) Where the auditor is an individual, the report must be signed by him.
  - (3) Where the auditor is a firm, the report must be signed by the senior statutory auditor in his own name, for and on behalf of the auditor.

### Senior statutory auditor

**504.**—(1) The senior statutory auditor means the individual identified by the firm as senior statutory auditor in relation to the audit in accordance with—

- (a) standards issued by the European Commission, or
- (b) if there is no applicable standard so issued, any relevant guidance issued by—
  - (i) the Secretary of State, or
  - (ii) a body appointed by order of the Secretary of State.

(2) The person identified as senior statutory auditor must be eligible for appointment as auditor of the LLP in question (see Chapter 2 of Part 42 of this Act).

(3) The senior statutory auditor is not, by reason of being named or identified as senior statutory auditor or by reason of his having signed the auditor's report, subject to any civil liability to which he would not otherwise be subject.

(4) An order appointing a body for the purpose of subsection (1)(b)(ii) is subject to negative resolution procedure.

### Names to be stated in published copies of auditor's report

**505.**—(1) Every copy of the auditor's report that is published by or on behalf of the LLP must—

- (a) state the name of the auditor and (where the auditor is a firm) the name of the person who signed it as senior statutory auditor, or
- (b) if the conditions in section 506 (circumstances in which names may be omitted) are met, state that a determination has been made and notified to the Secretary of State in accordance with that section.

(2) For the purposes of this section an LLP is regarded as publishing the report if it publishes, issues or circulates it or otherwise makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.

(3) If a copy of the auditor's report is published without the statement required by this section, an offence is committed by—

- (a) the LLP, and
- (b) every designated member of the LLP who is in default.

(4) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

### Circumstances in which names may be omitted

**506.**—(1) The auditor's name and, where the auditor is a firm, the name of the person who signed the report as senior statutory auditor, may be omitted from—

- (a) published copies of the report, and
- (b) the copy of the report delivered to the registrar under Chapter 10 of Part 15 (filing of accounts and reports),

if the following conditions are met.

(2) The conditions are that the LLP—

- (a) considering on reasonable grounds that statement of the name would create or be likely to create a serious risk that the auditor or senior statutory auditor, or any

other person, would be subject to violence or intimidation, has determined that the name should not be stated, and

- (b) has given notice of the determination to the Secretary of State, stating—
  - (i) the name and registered number of the LLP,
  - (ii) the financial year of the LLP to which the report relates, and
  - (iii) the name of the auditor and (where the auditor is a firm) the name of the person who signed the report as senior statutory auditor.”

### **Offences in connection with auditor’s report**

**42.** Sections 507 to 509 apply to LLPs, modified so that they read as follows—

#### **“Offences in connection with auditor’s report**

**507.**—(1) A person to whom this section applies commits an offence if he knowingly or recklessly causes a report under section 495 (auditor’s report on LLP’s annual accounts) to include any matter that is misleading, false or deceptive in a material particular.

(2) A person to whom this section applies commits an offence if he knowingly or recklessly causes such a report to omit a statement required by—

- (a) section 498(2)(b) (statement that LLP’s accounts do not agree with accounting records and returns),
  - (b) section 498(3) (statement that necessary information and explanations not obtained), or
  - (c) section 498(4) (statement that members wrongly prepared accounts in accordance with the small LLPs regime).
- (3) This section applies to—
- (a) where the auditor is an individual, that individual and any employee or agent of his who is eligible for appointment as auditor of the LLP;
  - (b) where the auditor is a firm, any director, member, employee or agent of the firm who is eligible for appointment as auditor of the LLP.
- (4) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to a fine;
  - (b) on summary conviction, to a fine not exceeding the statutory maximum.

#### **Guidance for regulatory and prosecuting authorities: England, Wales and Northern Ireland**

**508.**—(1) The Secretary of State may issue guidance for the purpose of helping relevant regulatory and prosecuting authorities to determine how they should carry out their functions in cases where behaviour occurs that—

- (a) appears to involve the commission of an offence under section 507 (offences in connection with auditor’s report), and
- (b) has been, is being or may be investigated pursuant to arrangements—
  - (i) under paragraph 15 of Schedule 10 (investigation of complaints against auditors and supervisory bodies), or
  - (ii) of a kind mentioned in paragraph 24 of that Schedule (independent investigation for disciplinary purposes of public interest cases).

(2) The Secretary of State must obtain the consent of the Attorney General before issuing any such guidance.

(3) In this section “relevant regulatory and prosecuting authorities” means—

- (a) supervisory bodies within the meaning of Part 42 of this Act,
- (b) bodies to which the Secretary of State may make grants under section 16(1) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27) (bodies concerned with accounting standards etc),
- (c) the Director of the Serious Fraud Office,
- (d) the Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland, and
- (e) the Secretary of State.

(4) This section does not apply to Scotland.

#### **Guidance for regulatory authorities: Scotland**

**509.**—(1) The Lord Advocate may issue guidance for the purpose of helping relevant regulatory authorities to determine how they should carry out their functions in cases where behaviour occurs that—

- (a) appears to involve the commission of an offence under section 507 (offences in connection with auditor’s report), and
- (b) has been, is being or may be investigated pursuant to arrangements—
  - (i) under paragraph 15 of Schedule 10 (investigation of complaints against auditors and supervisory bodies), or
  - (ii) of a kind mentioned in paragraph 24 of that Schedule (independent investigation for disciplinary purposes of public interest cases).

(2) The Lord Advocate must consult the Secretary of State before issuing any such guidance.

(3) In this section “relevant regulatory authorities” means—

- (a) supervisory bodies within the meaning of Part 42 of this Act,
- (b) bodies to which the Secretary of State may make grants under section 16(1) of the Companies (Audit, Investigations and Community Enterprise) Act 2004 (c.27) (bodies concerned with accounting standards etc), and
- (c) the Secretary of State.

(4) This section applies only to Scotland.”

## PART 13

### REMOVAL, RESIGNATION, ETC OF AUDITORS

#### **Removal, resignation, etc of auditors**

**43.**—(1) Sections 510 to 512 apply to LLPs, modified so that they read as follows—

##### **“Removal of auditor**

**510.**—(1) The members of an LLP may remove an auditor from office at any time.

(2) Nothing in this section is to be taken as depriving the person removed of compensation or damages payable to him in respect of the termination—

- (a) of his appointment as auditor, or
- (b) of any appointment terminating with that as auditor.

(3) An auditor may not be removed from office before the expiration of his term of office except under this section.

#### **Notice of removal of auditor**

**511.**—(1) No determination to remove an auditor before the expiration of his term of office may be made under section 510 unless the LLP has given 7 days' prior notice to any auditor whom it is proposed to remove

(2) The auditor proposed to be removed may make with respect to the proposal representations in writing to the LLP (not exceeding a reasonable length) and request their notification to members of the LLP.

(3) The LLP must upon receipt send a copy of the representations to every member.

(4) Copies of the representations need not be sent out if, on the application either of the LLP or of any other person claiming to be aggrieved, the court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The court may order the LLP's costs (in Scotland, expenses) on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

#### **Notice to registrar of determination removing auditor from office**

**512.**—(1) Where the members of an LLP have removed an auditor from office under section 510, the LLP must give notice of that fact to the registrar within 14 days.

(2) If the LLP fails to give the notice required by this section, an offence is committed by the LLP and every designated member who is in default.

(3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale and, for continued contravention, a daily default fine not exceeding one-tenth of level 3 on the standard scale.”

(2) Until section 1068(1) comes into force, the notice referred to in section 512(1) as applied to LLPs by paragraph (1) must be in the form prescribed for the purposes of section 391(2) of the 1985 Act or Article 399(2) of the 1986 Order as applied to LLPs.

#### **Rights of auditor removed from office**

**44.**—(1) Section 513 applies to LLPs, modified so that it reads as follows—

##### **“Rights of auditor who has been removed from office**

**513.**—(1) An auditor who has been removed has, notwithstanding his removal, the rights conferred by section 502(1) in relation to any meeting of the LLP—

- (a) at which his term of office would otherwise have expired, or
- (b) at which it is proposed to fill the vacancy caused by his removal.

(2) In such a case the references in that section to matters concerning the auditor as auditor shall be construed as references to matters concerning him as a former auditor.”

(2) In section 513 (applied to LLPs by paragraph (1)) as it applies in relation to an auditor appointed before 1st October 2008, the reference to rights under section 502(1) shall be read as

a reference to rights under section 390(1) of the 1985 Act or Article 398(1) of the 1986 Order as applied to LLPs.

### **Rights of auditor not re-appointed**

**45.**—(1) Sections 515 to 518 apply to LLPs, modified so that they read as follows—

#### **“Failure to re-appoint auditor: rights of auditor who is not re-appointed**

**515.**—(1) No person may be appointed as auditor in place of a person (the “outgoing auditor”) whose term of office has ended or is to end at the end of the period for appointing auditors unless the LLP has given 7 days’ prior notice to the outgoing auditor.

(2) The outgoing auditor may make with respect to the proposal representations in writing to the LLP (not exceeding a reasonable length) and request their notification to members of the LLP.

(3) The LLP must upon receipt send a copy of the representations to every member.

(4) Copies of the representations need not be sent out if, on the application either of the LLP or of any other person claiming to be aggrieved, the court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The court may order the LLP’s costs (in Scotland, expenses) on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

### **Resignation of auditor**

**516.**—(1) An auditor of an LLP may resign his office by depositing a notice in writing to that effect at the LLP’s registered office.

(2) The notice is not effective unless it is accompanied by the statement required by section 519.

(3) An effective notice of resignation operates to bring the auditor’s term of office to an end as of the date on which the notice is deposited or on such later date as may be specified in it.

### **Notice to registrar of resignation of auditor**

**517.**—(1) Where an auditor resigns the LLP must within 14 days of the deposit of a notice of resignation send a copy of the notice to the registrar of companies.

(2) If default is made in complying with this section, an offence is committed by—

- (a) the LLP, and
- (b) every designated member of the LLP who is in default.

(3) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum and, for continued contravention, a daily default fine not exceeding one-tenth of the statutory maximum.

### **Rights of resigning auditor**

**518.**—(1) This section applies where an auditor’s notice of resignation is accompanied by a statement of the circumstances connected with his resignation (see section 519).



(2) He may deposit with the notice a signed requisition calling on the designated members of the LLP forthwith duly to convene a meeting of the members of the LLP for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.

(3) He may request the LLP to circulate to its members before the meeting convened on his requisition, a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation.

(4) The LLP must (unless the statement is received too late for it to comply)—

- (a) in any notice of the meeting given to members of the LLP, state the fact of the statement having been made, and
- (b) send a copy of the statement to every member of the LLP to whom notice of the meeting is or has been sent.

(5) The designated members must within 21 days from the date of the deposit of a requisition under this section proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given.

(6) If default is made in complying with subsection (5), every designated member who failed to take all reasonable steps to secure that a meeting was convened commits an offence.

(7) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction to a fine not exceeding the statutory maximum.

(8) If a copy of the statement mentioned above is not sent out as required because received too late or because of the LLP's default, the auditor may (without prejudice to his right to be heard orally) require that the statement be read out at the meeting.

(9) Copies of a statement need not be sent out and the statement need not be read out at the meeting if, on the application either of the LLP or of any other person who claims to be aggrieved, the court is satisfied that the auditor is using the provisions of this section to secure needless publicity for defamatory matter.

The court may order the LLP's costs (in Scotland, expenses) on such an application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

(10) An auditor who has resigned has, notwithstanding his resignation, the rights conferred by section 502(1) in relation to any such meeting of the LLP as is mentioned in subsection (3).

In such a case the references in that section to matters concerning the auditor as auditor shall be construed as references to matters concerning him as a former auditor."

(2) In section 518 (applied to LLPs by paragraph (1)) as it applies in relation to an auditor appointed before 1st October 2008, the reference to rights under section 502(1) shall be read as a reference to rights under section 390(1) of the 1985 Act or Article 398(1) of the 1986 Order as applied to LLPs.

## **Auditor statements**

**46.** Sections 519 to 526(28) apply to LLPs, modified so that they read as follows—

### **“Statement by auditor to be deposited with LLP**

**519.**—(1) Where an auditor of an LLP ceases for any reason to hold office, he must deposit at the LLP's registered office a statement of the circumstances connected with his

ceasing to hold office, unless he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the LLP.

(2) If he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the LLP, he must deposit at the LLP's registered office a statement to that effect.

(3) The statement required by this section must be deposited—

- (a) in the case of resignation, along with the notice of resignation;
- (b) in the case of failure to seek re-appointment, not less than 14 days before the end of the time allowed for next appointing an auditor;
- (c) in any other case, not later than the end of the period of 14 days beginning with the date on which he ceases to hold office.

(4) A person ceasing to hold office as auditor who fails to comply with this section commits an offence.

(5) In proceedings for such an offence it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(6) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

(7) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence.

For this purpose—

- (a) any person who acts as director, manager or secretary of the body is treated as an officer of the body, and
- (b) if the body is a company, any shadow director is treated as an officer of the company.

### **LLP's duties in relation to statement**

**520.**—(1) This section applies where the statement deposited under section 519 states the circumstances connected with the auditor's ceasing to hold office.

(2) The LLP must within 14 days of the deposit of the statement either—

- (a) send a copy of it to every person who under section 423 is entitled to be sent copies of the accounts, or
- (b) apply to the court.

(3) If it applies to the court, the LLP must notify the auditor of the application.

(4) If the court is satisfied that the auditor is using the provisions of section 519 to secure needless publicity for defamatory matter—

- (a) it shall direct that copies of the statement need not be sent out, and
- (b) it may further order the LLP's costs (in Scotland, expenses) on the application to be paid in whole or in part by the auditor, even if he is not a party to the application.

The LLP must within 14 days of the court's decision send to the persons mentioned in subsection (2)(a) a statement setting out the effect of the order.

(5) If no such direction is made the LLP must send copies of the statement to the persons mentioned in subsection (2)(a) within 14 days of the court's decision or, as the case may be, of the discontinuance of the proceedings.

(6) In the event of default in complying with this section an offence is committed by every designated member of the LLP who is in default.

(7) In proceedings for such an offence it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(8) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

### **Copy of statement to be sent to registrar**

**521.**—(1) Unless within 21 days beginning with the day on which he deposited the statement under section 519 the auditor receives notice of an application to the court under section 520, he must within a further seven days send a copy of the statement to the registrar.

(2) If an application to the court is made under section 520 and the auditor subsequently receives notice under subsection (5) of that section, he must within seven days of receiving the notice send a copy of the statement to the registrar.

(3) An auditor who fails to comply with subsection (1) or (2) commits an offence.

(4) In proceedings for such an offence it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(5) A person guilty of an offence under this section is liable—

(a) on conviction on indictment, to a fine;

(b) on summary conviction, to a fine not exceeding the statutory maximum.

(6) Where an offence under this section is committed by a body corporate, every officer of the body who is in default also commits the offence.

For this purpose—

(a) any person who acts as director, manager or secretary of the body is treated as an officer of the body, and

(b) if the body is a company, any shadow director is treated as an officer of the company.

### **Duty of auditor to notify appropriate audit authority**

**522.**—(1) Where—

(a) in the case of a major audit, an auditor ceases for any reason to hold office, or

(b) in the case of an audit that is not a major audit, an auditor ceases to hold office before the end of his term of office,

the auditor ceasing to hold office must notify the appropriate audit authority.

(2) The notice must—

(a) inform the appropriate audit authority that he has ceased to hold office, and

(b) be accompanied by a copy of the statement deposited by him at the LLP's registered office in accordance with section 519.

(3) If the statement so deposited is to the effect that he considers that there are no circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the LLP, the notice must also be accompanied by a statement of the reasons for his ceasing to hold office.

(4) The auditor must comply with this section—

- (a) in the case of a major audit, at the same time as he deposits a statement at the LLP's registered office in accordance with section 519;
- (b) in the case of an audit that is not a major audit, at such time (not being earlier than the time mentioned in paragraph (a)) as the appropriate audit authority may require.

(5) A person ceasing to hold office as auditor who fails to comply with this section commits an offence.

(6) If that person is a firm an offence is committed by—

- (a) the firm, and
- (b) every officer of the firm who is in default.

(7) In proceedings for an offence under this section it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(8) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

### **Duty of LLP to notify appropriate audit authority**

**523.**—(1) Where an auditor ceases to hold office before the end of his term of office, the LLP must notify the appropriate audit authority.

(2) The notice must—

- (a) inform the appropriate audit authority that the auditor has ceased to hold office, and
- (b) be accompanied by—
  - (i) a statement by the LLP of the reasons for his ceasing to hold office, or
  - (ii) if the copy of the statement deposited by the auditor at the LLP's registered office in accordance with section 519 contains a statement of circumstances in connection with his ceasing to hold office that need to be brought to the attention of members or creditors of the LLP, a copy of that statement.

(3) The LLP must give notice under this section not later than 14 days after the date on which the auditor's statement is deposited at the LLP's registered office in accordance with section 519.

(4) If an LLP fails to comply with this section, an offence is committed by—

- (a) the LLP, and
- (b) every designated member of the LLP who is in default.

(5) In proceedings for such an offence it is a defence for the person charged to show that he took all reasonable steps and exercised all due diligence to avoid the commission of the offence.

(6) A person guilty of an offence under this section is liable—

- (a) on conviction on indictment, to a fine;
- (b) on summary conviction, to a fine not exceeding the statutory maximum.

### **Information to be given to accounting authorities**

**524.**—(1) The appropriate audit authority on receiving notice under section 522 or 523 of an auditor’s ceasing to hold office—

- (a) must inform the accounting authorities, and
- (b) may if it thinks fit forward to those authorities a copy of the statement or statements accompanying the notice.

(2) The accounting authorities are—

- (a) the Secretary of State, and
- (b) the body known as the Financial Reporting Review Panel established under the articles of association of the Financial Reporting Council Limited (registered number 02486368).

(3) If either of the accounting authorities is also the appropriate audit authority it is only necessary to comply with this section as regards any other accounting authority.

(4) If the court has made an order under section 520(4) directing that copies of the statement need not be sent out by the LLP, sections 460 and 461 (restriction on further disclosure) apply in relation to the copies sent to the accounting authorities as they apply to information obtained under section 459 (power to require documents etc).

### **Meaning of “appropriate audit authority” and “major audit”**

**525.**—(1) In sections 522, 523 and 524 “appropriate audit authority” means—

- (a) in the case of a major audit (other than one conducted by an Auditor General), the body known as the Professional Oversight Board established under the articles of association of the Financial Reporting Council Limited (registered number 02486368);
- (b) in the case of an audit (other than one conducted by an Auditor General) that is not a major audit, the relevant supervisory body;
- (c) in the case of an audit conducted by an Auditor General, the Independent Supervisor.

“Supervisory body” and “Independent Supervisor” have the same meaning as in Part 42 (statutory auditors) (see sections 1217 and 1228).

(2) In section 522 and this section “major audit” means a statutory audit conducted in respect of—

- (a) an LLP any of whose securities have been admitted to the official list (within the meaning of Part 6 of the Financial Services and Markets Act 2000 (c.8)), or
- (b) any other person in whose financial condition there is a major public interest.

(3) In determining whether an audit is a major audit within subsection (2)(b), regard shall be had to any guidance issued by any of the authorities mentioned in subsection (1).

### **Effect of casual vacancies**

**526.** If an auditor ceases to hold office for any reason, any surviving or continuing auditor or auditors may continue to act.”

## PART 14

### LLP AUDIT: SUPPLEMENTARY PROVISIONS

#### Minor definitions

47. Section 539(29) applies to LLPs, modified so that it reads as follows—

#### “Minor definitions

539. In this Part—

“e-money issuer” means a person who has permission under Part 4 of the Financial Services and Markets Act 2000 (c.8) to carry on the activity of issuing electronic money within the meaning of article 9B of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (S.I. 2001/544);

“LLP agreement” means any agreement express or implied between the members of the LLP or between the LLP and the members of the LLP which determines the mutual rights and duties of the members, and their rights and duties in relation to the LLP;

“MiFID investment firm” means an investment firm within the meaning of Article 4.1.1 of Directive 2004/39/EEC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, other than—

- (a) an LLP to which that Directive does not apply by virtue of Article 2 of that Directive,
- (b) an LLP which is an exempt investment firm within the meaning of regulation 4A(3) of the Financial Services and Markets Act 2000 (Markets in Financial Instruments) Regulations 2007, and
- (c) any other LLP which fulfils all the requirements set out in regulation 4C(3) of those Regulations;

“qualified”, in relation to an auditor’s report (or a statement contained in an auditor’s report), means that the report or statement does not state the auditor’s unqualified opinion that the accounts have been properly prepared in accordance with this Act or, in the case of an undertaking not required to prepare accounts in accordance with this Act, under any corresponding legislation under which it is required to prepare accounts;

“turnover”, in relation to an LLP, means the amounts derived from the provision of goods and services falling within the LLP’s ordinary activities, after deduction of—

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

“UCITS management company” has the meaning given by the Glossary forming part of the Handbook made by the Financial Services Authority under the Financial Services and Markets Act 2000.”

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(29) Section 539 was amended by regulation 3(7) of S.I. 2007/2932.

## PART 15

### STATUTORY AUDITORS

#### Extension of Part 42

- 48.** For the purposes of section 1210(1)(h) (meaning of “statutory auditor”)—
- (a) an LLP is a prescribed person, and
  - (b) Part 16 of the Companies Act 2006 as applied to LLPs is a prescribed enactment,
- (and accordingly a person appointed as auditor of an LLP under Part 16 of that Act as applied to LLPs by these Regulations is a statutory auditor).

## PART 16

### OFFENCES

#### Liability of member in default

- 49.** Sections 1121 and 1122 apply to LLPs, modified so that they read as follows—

##### “Liability of member in default

**1121.**—(1) This section has effect for the purposes of any provision of the Companies Acts to the effect that, in the event of contravention of an enactment in relation to an LLP, an offence is committed by every member or, as the case may be, every designated member of the LLP who is in default.

(2) A member or designated member is “in default” for the purposes of the provision if he authorises or permits, participates in, or fails to take all reasonable steps to prevent, the contravention.

##### Liability of company as member in default

**1122.**—(1) Where a company is a member or designated member of an LLP, it does not commit an offence as a member or designated member in default unless one of its officers is in default.

(2) Where any such offence is committed by a company the officer in question also commits the offence and is liable to be proceeded against and punished accordingly.

(3) In this section—

- (a) officer” includes any director, manager or secretary, and
- (b) an officer is “in default” for the purposes of the provision if he authorises or permits, participates in, or fails to take all reasonable steps to prevent, the contravention.”

#### General provisions

- 50.** Sections 1125 to 1132 apply to LLPs, modified so that they read as follows—

### “Meaning of “daily default fine

**1125.**—(1) This section defines what is meant in the Companies Acts where it is provided that a person guilty of an offence is liable on summary conviction to a fine not exceeding a specified amount “and, for continued contravention, a daily default fine” not exceeding a specified amount.

(2) This means that the person is liable on a second or subsequent summary conviction of the offence to a fine not exceeding the latter amount for each day on which the contravention is continued (instead of being liable to a fine not exceeding the former amount).

### Consents required for certain prosecutions

**1126.**—(1) This section applies to proceedings for an offence under section 458 or 460 of this Act.

(2) No such proceedings are to be brought in England and Wales except by or with the consent of the Secretary of State or the Director of Public Prosecutions.

(3) No such proceedings are to be brought in Northern Ireland except by or with the consent of the Secretary of State or the Director of Public Prosecutions for Northern Ireland.

### Summary proceedings: venue

**1127.**—(1) Summary proceedings for any offence under the Companies Acts may be taken—

- (a) against a body corporate, at any place at which the body has a place of business, and
- (b) against any other person, at any place at which he is for the time being.

(2) This is without prejudice to any jurisdiction exercisable apart from this section.

### Summary proceedings: time limit for proceedings

**1128.**—(1) An information relating to an offence under the Companies Acts that is triable by a magistrates’ court in England and Wales may be so tried if it is laid—

- (a) at any time within three years after the commission of the offence, and
- (b) within twelve months after the date on which evidence sufficient in the opinion of the Director of Public Prosecutions or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.

(2) Summary proceedings in Scotland for an offence under the Companies Acts—

- (a) must not be commenced after the expiration of three years from the commission of the offence;
- (b) subject to that, may be commenced at any time—
  - (i) within twelve months after the date on which evidence sufficient in the Lord Advocate’s opinion to justify the proceedings came to his knowledge, or
  - (ii) where such evidence was reported to him by the Secretary of State, within twelve months after the date on which it came to the knowledge of the latter.

Section 136(3) of the Criminal Procedure (Scotland) Act 1995 (c.46) (date when proceedings deemed to be commenced) applies for the purposes of this subsection as for the purposes of that section.



(3) A magistrates' court in Northern Ireland has jurisdiction to hear and determine a complaint charging the commission of a summary offence under the Companies Acts provided that the complaint is made—

- (a) within three years from the time when the offence was committed, and
- (b) within twelve months from the date on which evidence sufficient in the opinion of the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) to justify the proceedings comes to his knowledge.

(4) For the purposes of this section a certificate of the Director of Public Prosecutions, the Lord Advocate, the Director of Public Prosecutions for Northern Ireland or the Secretary of State (as the case may be) as to the date on which such evidence as is referred to above came to his notice is conclusive evidence.

### **Legal professional privilege**

**1129.** In proceedings against a person for an offence under the Companies Acts, nothing in those Acts is to be taken to require any person to disclose any information that he is entitled to refuse to disclose on grounds of legal professional privilege (in Scotland, confidentiality of communications).

### **Proceedings against unincorporated bodies**

**1130.**—(1) Proceedings for an offence under the Companies Acts alleged to have been committed by an unincorporated body must be brought in the name of the body (and not in that of any of its members).

(2) For the purposes of such proceedings—

- (a) any rules of court relating to the service of documents have effect as if the body were a body corporate, and
- (b) the following provisions apply as they apply in relation to a body corporate—
  - (i) in England and Wales, section 33 of the Criminal Justice Act 1925 (c.86) and Schedule 3 to the Magistrates' Courts Act 1980 (c.43),
  - (ii) in Scotland, sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c.46),
  - (iii) in Northern Ireland, section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c.15 (N.I.)) and Article 166 of and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)).

(3) A fine imposed on an unincorporated body on its conviction of an offence under the Companies Acts must be paid out of the funds of the body.

### **Imprisonment on summary conviction in England and Wales: transitory provision**

**1131.**—(1) This section applies to any provision of the Companies Acts that provides that a person guilty of an offence is liable on summary conviction in England and Wales to imprisonment for a term not exceeding twelve months.

(2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c.44), for “twelve months” substitute “six months”.

### **Production and inspection of documents where offence suspected**

**1132.**—(1) An application under this section may be made—

- (a) in England and Wales, to a judge of the High Court by the Director of Public Prosecutions, the Secretary of State or a chief officer of police;
  - (b) in Scotland, to one of the Lords Commissioners of Justiciary by the Lord Advocate;
  - (c) in Northern Ireland, to the High Court by the Director of Public Prosecutions for Northern Ireland, the Department of Enterprise, Trade and Investment or a chief superintendent of the Police Service of Northern Ireland.
- (2) If on an application under this section there is shown to be reasonable cause to believe—
- (a) that any person has, while a member of an LLP, committed an offence in connection with the management of the LLP's affairs, and
  - (b) that evidence of the commission of the offence is to be found in any documents in the possession or control of the LLP, an order under this section may be made.
- (3) The order may—
- (a) authorise any person named in it to inspect the documents in question, or any of them, for the purpose of investigating and obtaining evidence of the offence, or
  - (b) require such member of the LLP as may be named in the order, to produce the documents (or any of them) to a person named in the order at a place so named.
- (4) This section applies also in relation to documents in the possession or control of a person carrying on the business of banking, so far as they relate to the LLP's affairs, as it applies to documents in the possession or control of the LLP, except that no such order as is referred to in subsection (3)(b) may be made by virtue of this subsection.”

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

## PART 17

### LLPs: SUPPLEMENTARY AND INTERPRETATION

#### Courts and legal proceedings

**51.** Section 1157 applies to LLPs, modified so that it reads as follows—

**“Power of court to grant relief in certain cases**

**1157.**—(1) If in proceedings for negligence, default, breach of duty or breach of trust against—

- (a) a member of an LLP, or
- (b) a person employed by an LLP as auditor,

it appears to the court hearing the case that the member or person is or may be liable but that he acted honestly and reasonably, and that having regard to all the circumstances of the case (including those connected with his appointment) he ought fairly to be excused, the court may relieve him, either wholly or in part, from his liability on such terms as it thinks fit.

(2) If any such member or person has reason to apprehend that a claim will or might be made against him in respect of negligence, default, breach of duty or breach of trust—

- (a) he may apply to the court for relief, and

(b) the court has the same power to relieve him as it would have had if it had been a court before which proceedings against him for negligence, default, breach of duty or breach of trust had been brought.

(3) Where a case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant (in Scotland, the defender) ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case from the jury and forthwith direct judgment to be entered for the defendant (in Scotland, grant decree of absolvitor) on such terms as to costs (in Scotland, expenses) or otherwise as the judge may think proper.”

### **Meaning of “undertaking” and related expressions**

**52.** Sections 1161 and 1162 and Schedule 7 apply to LLPs, modified so that they read as follows—

#### **“Meaning of “undertaking” and related expressions**

**1161.**—(1) In this Act “undertaking” means—

- (a) a body corporate or partnership, or
- (b) an unincorporated association carrying on a trade or business, with or without a view to profit.

(2) In this Act references to shares—

- (a) in relation to an undertaking with capital but no share capital, are to rights to share in the capital of the undertaking; and
- (b) in relation to an undertaking without capital, are to interests—
  - (i) conferring any right to share in the profits or liability to contribute to the losses of the undertaking, or
  - (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up.

(3) Other expressions appropriate to companies shall be construed, in relation to an undertaking which is not a company, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that description.

This is subject to provision in any specific context providing for the translation of such expressions.

(4) References in this Act to “fellow subsidiary undertakings” are to undertakings which are subsidiary undertakings of the same parent undertaking but are not parent undertakings or subsidiary undertakings of each other.

(5) In this Act “group undertaking”, in relation to an undertaking, means an undertaking which is—

- (a) a parent undertaking or subsidiary undertaking of that undertaking, or
- (b) a subsidiary undertaking of any parent undertaking of that undertaking.

#### **Parent and subsidiary undertakings**

**1162.**—(1) This section (together with Schedule 7) defines “parent undertaking” and “subsidiary undertaking” for the purposes of this Act.

(2) An undertaking is a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—

- (a) it holds a majority of the voting rights in the undertaking, or
  - (b) it is a member of the undertaking and has the right to appoint or remove a majority of its board of directors, or
  - (c) it has the right to exercise a dominant influence over the undertaking—
    - (i) by virtue of provisions contained in the undertaking’s articles or in an LLP Agreement, or
    - (ii) by virtue of a control contract, or
  - (d) it is a member of the undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the undertaking.
- (3) For the purposes of subsection (2) an undertaking shall be treated as a member of another undertaking—
- (a) if any of its subsidiary undertakings is a member of that undertaking, or
  - (b) if any shares in that other undertaking are held by a person acting on behalf of the undertaking or any of its subsidiary undertakings.
- (4) An undertaking is also a parent undertaking in relation to another undertaking, a subsidiary undertaking, if—
- (a) it has the power to exercise, or actually exercises, dominant influence or control over it, or
  - (b) it and the subsidiary undertaking are managed on a unified basis.
- (5) A parent undertaking shall be treated as the parent undertaking of undertakings in relation to which any of its subsidiary undertakings are, or are to be treated as, parent undertakings; and references to its subsidiary undertakings shall be construed accordingly.
- (6) Schedule 7 contains provisions explaining expressions used in this section and otherwise supplementing this section.
- (7) In this section and that Schedule references to shares, in relation to an undertaking, are to allotted shares.”

## “SCHEDULE 7

### PARENT AND SUBSIDIARY UNDERTAKINGS: SUPPLEMENTARY PROVISIONS

#### **Introduction**

1. The provisions of this Schedule explain expressions used in section 1162 (parent and subsidiary undertakings) and otherwise supplement that section.

#### **Voting rights in an undertaking**

2.—(1) In section 1162(2)(a) and (d) the references to the voting rights in an undertaking are to the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote at general meetings of the undertaking on all, or substantially all, matters.

(2) In relation to an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights the references to holding a majority of the voting rights in the undertaking are to be construed as references to having the right under the constitution of the undertaking to direct the overall policy of the undertaking or to alter the terms of its constitution.

### **Right to appoint or remove a majority of members or directors**

3.—(1) In section 1162(2)(b) the reference to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

(2) An undertaking shall be treated as having the right to appoint to a directorship if—

(a) a person's appointment to it follows necessarily from his appointment as director of the undertaking, or

(b) the directorship is held by the undertaking itself.

(3) A right to appoint or remove which is exercisable only with the consent or concurrence of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

(4) In relation to an undertaking the business of which is managed by the members, references to the board of directors or directors are to be construed as references to members.

### **Right to exercise dominant influence**

4.—(1) For the purposes of section 1162(2)(c) an undertaking shall not be regarded as having the right to exercise a dominant influence over another undertaking unless it has a right to give directions with respect to the operating and financial policies of that other undertaking which its directors are obliged to comply with whether or not they are for the benefit of that other undertaking.

(2) A “control contract” means a contract in writing conferring such a right which—

(a) is of a kind authorised by the articles of the undertaking or by the LLP agreement of the LLP in relation to which the right is exercisable, and

(b) is permitted by the law under which that undertaking is established.

(3) In relation to an undertaking the business of which is managed by the members, references to directors are to be construed as references to members.

(4) This paragraph shall not be read as affecting the construction of section 1162(4)(a).

### **Rights exercisable only in certain circumstances or temporarily incapable of exercise**

5.—(1) Rights which are exercisable only in certain circumstances shall be taken into account only—

(a) when the circumstances have arisen, and for so long as they continue to obtain, or

(b) when the circumstances are within the control of the person having the rights.

(2) Rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.

### **Rights held by one person on behalf of another**

6. Rights held by a person in a fiduciary capacity shall be treated as not held by him.

7.—(1) Rights held by a person as nominee for another shall be treated as held by the other.

(2) Rights shall be regarded as held as nominee for another if they are exercisable only on his instructions or with his consent or concurrence.

### **Rights attached to shares held by way of security**

**8.** Rights attached to shares held by way of security shall be treated as held by the person providing the security—

- (a) where apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in accordance with his instructions, and
- (b) where the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realising it, the rights are exercisable only in his interests.

### **Rights attributed to parent undertaking**

**9.—(1)** Rights shall be treated as held by a parent undertaking if they are held by any of its subsidiary undertakings.

(2) Nothing in paragraph 7 or 8 shall be construed as requiring rights held by a parent undertaking to be treated as held by any of its subsidiary undertakings.

(3) For the purposes of paragraph 8 rights shall be treated as being exercisable in accordance with the instructions or in the interests of an undertaking if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of any group undertaking.

### **Disregard of certain rights**

**10.** The voting rights in an undertaking shall be reduced by any rights held by the undertaking itself.

### **Supplementary**

**11.** References in any provision of paragraphs 6 to 10 to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those paragraphs but not rights which by virtue of any such provision are to be treated as not held by him.”

### **Meaning of “dormant”**

**53.** Section 1169 applies to LLPs, modified so that it reads as follows—

#### **“Dormant LLPs**

**1169.—(1)** For the purposes of this Act an LLP is “dormant” during any period in which it has no significant accounting transaction.

(2) A “significant accounting transaction” means a transaction that is required by section 386 to be entered in the LLP’s accounting records.

(3) In determining whether or when an LLP is dormant, there shall be disregarded any transaction consisting of the payment of—

- (a) a fee to the registrar on a change of the LLP’s name,
- (b) a penalty under section 453 (penalty for failure to file accounts), or
- (c) a fee to the registrar for the registration of an annual return.”

## Requirements of this Act

54. Section 1172 applies to LLPs, modified so that it reads as follows—

### “References to requirements of this Act

1172. References in the provisions of this Act applied to LLPs to the requirements of this Act include the requirements of regulations and orders made under it.”

## Minor definitions

55. Section 1173 applies to LLPs, modified so that it reads as follows—

### “Minor definitions: general

1173.—(1) In this Act—

“body corporate” includes a body incorporated outside the United Kingdom, but does not include—

- (a) a corporation sole, or
- (b) a partnership that, whether or not a legal person, is not regarded as a body corporate under the law by which it is governed;

“EEA undertaking” means an undertaking governed by the law of an EEA State.

“parent LLP” means an LLP that is a parent undertaking (see section 1162 and Schedule 7);

“regulated activity” has the meaning given by section 22 of the Financial Services and Markets Act 2000 (c.8);

“regulated market” has the same meaning as in Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments (see Article 4.1(14)).

(2) In relation to an EEA State that has not implemented Directive 2004/39/EC of the European Parliament and of the Council on markets in financial instruments, the following definition of “regulated market” has effect in place of that in subsection (1)—

“regulated market” has the same meaning as it has in Council Directive 93/22/EEC on investment services in the securities field.”

## Regulations

56. Sections 1288 to 1290 apply to LLPs, modified so that they read as follows—

### “Regulations: statutory instrument

1288. Except as otherwise provided, regulations under this Act shall be made by statutory instrument.

### Regulations: negative resolution procedure

1289. Where regulations under this Act are subject to “negative resolution procedure” the statutory instrument containing the regulations or order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Regulations: affirmative resolution procedure**

**1290.** Where regulations under this Act are subject to “affirmative resolution procedure” the regulations must not be made unless a draft of the statutory instrument containing them has been laid before Parliament and approved by a resolution of each House of Parliament.”

**57.** Section 1292 applies to LLPs, modified so that it reads as follows—

**“Regulations and orders: supplementary**

**1292.**—(1) Regulations under this Act may—

- (a) make different provision for different cases or circumstances,
- (b) include supplementary, incidental and consequential provision, and
- (c) make transitional provision and savings.

(2) Any provision that may be made by regulations under this Act subject to negative resolution procedure may be made by regulations subject to affirmative resolution procedure.”

## PART 18

### FINAL PROVISIONS

**Revocation and transitional provisions**

**58.**—(1) Subject to paragraphs (3) to (11), the following provisions of the Limited Liability Partnerships Regulations 2001(**30**) are revoked—

- (a) regulation 3 and Schedule 1,
- (b) in Schedule 2, the entries relating to sections 384, 385, 387, 388, 388A, 389A, 390, 390A, 390B, 391, 391A, 392, 392A, 394, 394A and 742, and
- (c) entries 1, 2, 3 and 6 in Part I of Schedule 6.

(2) Subject to paragraphs (3) to (11), the following provisions of the Limited Liability Partnerships Regulations (Northern Ireland) 2004(**31**) are revoked—

- (a) regulation 3 and Schedule 1,
- (b) in Schedule 2, the entries relating to Articles 10, 392, 393, 395, 396, 396A, 397A, 398, 398A, 398B, 399, 399A, 400, 400A, 401A and 401B, and
- (c) entries 1, 2, 3 and 6 in Part I of Schedule 5.

(3) The provisions specified in paragraphs (1)(a) and (c) and (2)(a) and (c), and the entries specified in paragraphs (1)(b) and (2)(b) relating to section 742 of the 1985 Act or Article 10 of the 1986 Order, continue to apply to accounts for, and otherwise as regards, financial years beginning before 1st October 2008.

(4) The entries specified in paragraphs (1)(b) and (2)(b) relating to sections 384, 385, 387, 388 and 388A of the 1985 Act or Articles 392, 393, 395, 396 and 396A of the 1986 Order continue to apply in relation to appointments of auditors for financial years beginning before 1st October 2008, and section 388(2) of the 1985 Act or Article 396(2) of the 1986 Order as applied to LLPs continues to apply where the vacancy occurs before that date.

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**(30)** S.I. 2001/1090.

**(31)** S.R. (NI) 2004/307.



(5) The entries specified in paragraphs (1)(b) and (2)(b) relating to section 389A of the 1985 Act or Article 397A of the 1986 Order continue to apply as regards financial years beginning before 1st October 2008.

(6) The entries specified in paragraphs (1)(b) and (2)(b) relating to section 390 of the 1985 Act or Article 398 of the 1986 Order continue to apply to auditors appointed before 1st October 2008.

(7) The entries specified in paragraphs (1)(b) and (2)(b) relating to sections 390A and 390B of the 1985 Act or Articles 398A and 398B of the 1986 Order continue to apply to auditors appointed for financial years beginning before 1st October 2008.

(8) The entries specified in paragraphs (1)(b) and (2)(b) relating to sections 391 and 391A of the 1985 Act or Articles 399 and 399A of the 1986 Order continue to apply as respects removal of auditors where notice is given to the auditor before 1st October 2008.

(9) The entries specified in paragraphs (1)(b) and (2)(b) relating to section 391A of the 1985 Act or Article 399A of the 1986 Order continue to apply as regards failure to re-appoint an auditor to appointments for financial years beginning before 1st October 2008.

(10) -The entries specified in paragraphs (1)(b) and (2)(b) relating to sections 392 and 392A of the 1985 Act or Articles 400 and 400A of the 1986 Order continue to apply to resignations occurring before 1st October 2008.

(11) The entries specified in paragraphs (1)(b) and (2)(b) relating to sections 394 and 394A of the 1985 Act or Articles 401A and 401B of the 1986 Order continue to apply where the auditor ceases to hold office before 1st October 2008.

Date

*Name*  
Parliamentary Under Secretary of State for Trade  
and Consumer Affairs,  
Department for Business, Enterprise and  
Regulatory Reform

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## EXPLANATORY NOTE

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

The Limited Liability Partnerships Act 2000 and the Limited Liability Partnerships Act (Northern Ireland) 2002 provide for the creation of limited liability partnerships (LLPs) and for the making of regulations concerning them.

These Regulations replace provisions of the Limited Liability Partnerships Regulations 2001 (“the 2001 Regulations”) and the Limited Liability Partnerships Regulations (Northern Ireland) 2004 (“the 2004 Regulations”) which apply to LLPs provisions of the Companies Act 1985 (“the 1985 Act”) and the Companies (Northern Ireland) Order 1986 (“the 1986 Order”) relating to accounts and audit. They apply to LLPs, with modifications, provisions on the accounts and audit of companies contained in the Companies Act 2006 (“the 2006 Act”) and extend to the United Kingdom (reflecting the extent of the 2006 Act).

Separate regulations (the Small Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]) and the Large and Medium-sized Limited Liability Partnerships (Accounts) Regulations 2008 (S.I. 2008/[ ]), to which these Regulations cross-refer, apply to LLPs provisions on the form and content of accounts previously contained in the Schedules to Part 7 of the 1985 Act and Part 8 of the 1986 Order and now prescribed in regulations made under Part 15 of the 2006 Act.

Part 1 of the Regulations contains general introductory provisions on citation, commencement, application and interpretation. The Regulations come into force on 1st October 2008, and for the most part apply to financial years beginning on or after 1st October 2008 (regulation 2).

Parts 2 to 9 of the Regulations apply provisions of Part 15 of the 2006 Act on accounts to LLPs with modifications.

Part 2 of the Regulations applies to LLPs the provisions in Part 15 of the 2006 Act determining when a company or group qualifies as small.

Parts 3 and 4 of the Regulations apply to LLPs the provisions in Part 15 of the 2006 Act concerning the keeping of accounting records and the determination of financial years.

Part 5 of the Regulations applies to LLPs the provisions in Part 15 of the 2006 Act concerning the preparation of accounts, including new section 410A of the 2006 (which requires disclosure in the notes to accounts of off-balance sheet arrangements) which is applied to large and medium-sized LLPs.

Parts 6 and 7 of the Regulations apply to LLPs the requirements in Part 15 of the 2006 Act concerning the publication and filing with the registrar of companies of accounts and auditors’ reports on them. Section 423 of the 2006 Act as applied does not re-enact the current requirement for LLPs to send copies of their annual accounts and auditor’s report to members and others within one month of the accounts being signed. It provides instead for the accounts to be sent no later than the end of the period for filing them with the registrar of companies of, if earlier, the date on which they are actually delivered to the registrar. Section 453 of the 2006 Act and regulations made under it (the Companies (Late Filing Penalties) and Limited Liability Partnerships (Filing Periods and Late Filing Penalties) Regulations 2008 (S.I. 2008/497)) are applied to LLPs with modifications. The penalties which LLPs must pay to the registrar of companies are those specified for private companies in regulation 4 of S.I. 2008/497, the penalty being doubled for late filing in two successive years beginning on or after 1st October 2008.

Part 8 applies to LLPs the provisions on defective accounts in the 2006 Act and in the Companies (Revision of Defective Accounts and Reports) Regulations 2008 (S.I. 2008/373). Part 9 applies

supplementary provisions of Part 15 to LLPs, including provisions determining when a company or group qualifies as medium-sized and definitions.

Parts 10 to 14 of the Regulations apply provisions of Part 16 of the 2006 Act on the audit of accounts to LLPs with modifications. In particular, the new provision in Part 16 on signature of audit reports by the senior statutory auditor (sections 503 to 506), the new offence in connection with the audit report (sections 507 to 509) and strengthened rules on statements by those ceasing to be auditor (sections 519 to 525 as they apply to unquoted companies) are applied to LLPs with modifications. Parts 1 and 2 of the Companies (Disclosure of Auditor Remuneration and Liability Limitation Agreements) Regulations 2008 (S.I. 2008/489) are applied to LLPs.

Part 15 prescribes an audit of an LLP as a statutory audit for the purposes of section 1210(1)(h) of the 2006 Act.

Part 16 of the Regulations applies provisions of Part 36 of the 2006 Act on offences to LLPs with modifications. Part 17 contains supplementary and interpretation provisions, and Part 18 revocations and transitionals.

An Impact Assessment of the effect that these Regulations will have on the costs of business, charities or voluntary bodies has been prepared and is available from the Department for Business, Enterprise and Regulatory Reform, Corporate Law and Governance Directorate, 1 Victoria Street, London SW1H 0ET. It is also available electronically at <http://www.berr.gov.uk/bbf/llp/page39897.html>. Copies have also been placed in the libraries of both Houses of Parliament.