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STATUTORY INSTRUMENTS

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**2019 No. 970**

**The Companies (Directors' Remuneration Policy and Directors' Remuneration Report) Regulations 2019**

**PART 2**

Amendments to the Companies Act 2006

3. The Companies Act 2006 is amended in accordance with regulations 4 to 27.

**CHAPTER 1**

Amendments to Part 10 (a company's directors)

**Amendments to section 215**

4. In section 215 (payments for loss of office)(1)—
- (a) in subsection (5), after “company” insert “or unquoted traded company”;
  - (b) after subsection (5) insert—

“(6) “Unquoted traded company” means a traded company (as defined by section 360C) that is not a quoted company.”

**Amendment to Chapter 4A**

5. In the heading to Chapter 4A(2), after “companies” insert “and traded companies”.

**Amendments to section 226A**

6. In section 226A (key definitions)—
- (a) in subsection (1)—
    - (i) in the definition of “directors' remuneration policy”, after “company” insert “, or of an unquoted traded company,”;
    - (ii) after the definition of “payment for loss of office” insert—

““unquoted traded company” means a traded company (as defined by section 360C) that is not a quoted company.”;
  - (b) in subsection (2), after “quoted company” insert “or unquoted traded company”;
  - (c) after subsection (9) insert—

“(10) References in this Chapter (other than sections 226E(2)(b) and (5)) to a director of a company include a person who is not a director of the company but who is—

    - (a) its chief executive officer (however described), or

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(1) Section 215(5) was inserted by section 81 of the Enterprise and Regulatory Reform Act 2013.

(2) Chapter 4A was inserted by section 80 of the Enterprise and Regulatory Reform Act 2013.

- (b) where such a function exists in the company, its deputy chief executive officer (however described).”

**Amendments to section 226B**

- 7. In section 226B (remuneration payments)—
  - (a) in subsection (1), after “quoted company” insert “or unquoted traded company”;
  - (b) for subsection (1)(b) substitute—
    - “(b) an amendment to that policy authorising the company to make the payment has been approved by resolution of the members of the company.”.

**Amendments to section 226C**

- 8. In section 226C (loss of office payments)—
  - (a) in subsection (1), after “quoted company” insert “or of an unquoted traded company”;
  - (b) for subsection (1)(b) substitute—
    - “(b) an amendment to that policy authorising the company to make the payment has been approved by resolution of the members of the company.”.

**Amendments to section 226D**

- 9. In section 226D (sections 226B and 226C: supplementary)—
  - (a) in subsection (1)—
    - (i) for “a payment” substitute “an amendment”;
    - (ii) after “proposed payment” insert “to which the amendment relates”;
  - (b) for subsection (2) substitute—
    - “(2) The memorandum must explain the ways in which the payment would be inconsistent with the approved directors’ remuneration policy (within the meaning of the section in question) but for the amendment.”;
  - (c) in subsection (4), for “a payment” substitute “the amendment”;
  - (d) in subsection (6)—
    - (i) in the opening words, after “quoted company” insert “or of an unquoted traded company”, and
    - (ii) in paragraph (a) after “quoted company” insert “or (as the case may be) an unquoted traded company”.

**Amendments to section 226E**

- 10. In section 226E (payments made without approval: civil consequences)—
  - (a) in subsection (3), after “quoted company” insert “or of an unquoted traded company”;
  - (b) in subsection (4), after “quoted company” insert “or of an unquoted traded company”.

## CHAPTER 2

### Amendments to Part 15 (accounts and reports)

#### **Amendment to Chapter 6**

11. In the heading to Chapter 6 (quoted companies: directors' remuneration report), after "companies" insert "and traded companies".

#### **Amendment to section 420**

12. In section 420(1) (duty to prepare directors' remuneration report), after "quoted company" insert ", or of a traded company (as defined by section 360C) that is not a quoted company,".

#### **Amendment to section 426A**

13. In section 426A (supplementary material)(3), in subsection (2)(e), after "quoted company" insert "or of a traded company (as defined by section 360C) that is not a quoted company".

#### **Amendment to heading before section 430**

14. In the italic heading before section 430, after "companies" insert "and traded companies".

#### **Amendments to section 430**

15. In section 430 (quoted companies: annual accounts and reports to be made available on website)(4)—

- (a) in the heading, after "companies" insert "and traded companies";
- (b) in subsection (1), after "quoted company" insert "or unquoted traded company";
- (c) in subsection (1)(b), at the beginning insert "subject to subsection (4ZA),";
- (d) in subsection (2A)—
  - (i) after "quoted company" insert "or unquoted traded company";
  - (ii) after "section 422A," insert "or amended as mentioned in section 226B(1)(b) or section 226C(1)(b),";
  - (iii) after "the revised" insert "or amended";
- (e) in subsection (2B), after "quoted company" insert "or of an unquoted traded company";
- (f) after subsection (2B) insert—

"(2C) Where the members of a quoted company or of an unquoted traded company have passed a resolution approving the relevant directors' remuneration policy (within the meaning of section 439A(7))—

  - (a) the company must ensure that the following information is made available on the website on which its remuneration policy is made available as soon as reasonably practicable, and kept available for as long as that information is applicable —
    - (i) the date of the resolution,
    - (ii) the number of votes validly cast,

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(3) Section 426A was inserted by [S.I. 2013/1970](#).

(4) Section 430 was amended by section 81 of the Enterprise and Regulatory Reform Act 2013.

- (iii) the proportion of the company's issued share capital represented by those votes,
- (iv) the number of votes cast in favour,
- (v) the number of votes cast against, and
- (vi) the number of abstentions; and
- (b) for the purposes of paragraph (a)(iii), the proportion of the issued share capital must be determined by reference to the register of members as at a time (determined by the company) that is not more than 48 hours before the time for the holding of the meeting at which the resolution was passed.”;
- (g) in subsection (3), for “(2B)” substitute “(2C)”;
- (h) in subsection (4)(b), at the beginning insert “subject to subsection (4ZA)”;
- (i) after subsection (4), insert—
  - “(4ZA) The directors' remuneration report—
    - (a) must be kept available for a period of ten years beginning with the date it is first made available in accordance with this section, and
    - (b) may be kept available for a longer period if it does not contain personal data within the meaning of the Data Protection Act 2018<sup>(5)</sup> (see section 3(2) of that Act).”;
- (j) in subsection (4A)—
  - (i) omit “and” at the end of paragraph (a);
  - (ii) at the end of paragraph (b) insert “, and”;
  - (iii) after paragraph (b) insert—
    - “(c) in a subsection (2A) case, must be kept available for at least as long as it is applicable.”;
- (k) in subsection (5), after “(as the case may be)” insert “(4ZA) or”;
- (l) after subsection (7) insert—
  - “(8) In this section “unquoted traded company” means a traded company (as defined by section 360C) that is not a quoted company.”

#### **Amendments to section 431**

**16.** In section 431(1) (right of member or debenture holder to copies of accounts and reports: unquoted companies)<sup>(6)</sup>—

- (a) omit “and” at the end of paragraph (b);
- (b) after paragraph (b), insert—
  - “(ba) the last directors' remuneration report (if any), and”;
- (c) in paragraph (c), after “strategic report” insert “and on the directors' remuneration report”.

#### **Amendment to section 433**

**17.** In section 433 (name of signatory to be stated in published copies of accounts and reports)—

- (a) in subsection (2), after “unquoted company” insert “that is not a traded company”;

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<sup>(5)</sup> 2018 c. 12.

<sup>(6)</sup> Section 431(1) was amended by S.I. 2013/1970.

- (b) in subsection (3), in the opening words, after “company” insert “or of a traded company (as defined by section 360C) that is not a quoted company”.

### **Amendment to Chapter 9**

**18.** In the heading to Chapter 9 (quoted companies: members’ approval of directors’ remuneration report), after “companies” insert “and traded companies”.

### **Amendments to section 439**

**19.** In section 439 (quoted companies: members’ approval of directors’ remuneration report)(7)—

- (a) in the heading, after “companies” insert “and traded companies”;
- (b) in subsection (1), for “quoted company” substitute “company to which this section applies”;
- (c) after subsection (1) insert—
  - “(1A) This section applies to—
  - (a) a quoted company, and
  - (b) a traded company (as defined by section 360C) that is not a quoted company.”

### **Amendments to section 439A**

**20.** In section 439A (quoted companies: members’ approval of directors’ remuneration policy)(8)—

- (a) in the heading, after “companies” insert “and traded companies”;
- (b) in subsection (1)—
  - (i) in the opening words, after “company” insert “or unquoted traded company”, and
  - (ii) in paragraph (a), after “quoted company” insert “or (as the case may be) an unquoted traded company”;
- (c) in subsections (2) and (3), after “quoted company” insert “or unquoted traded company”;
- (d) after subsection (2), insert—
  - “(2A) A quoted company or unquoted traded company must give notice of the intention to move at an accounts or other general meeting, as an ordinary resolution, a resolution approving the relevant directors’ remuneration policy if—
  - (a) a resolution required to be put to the vote under subsection (1) or (2) or this subsection was not passed at the last accounts or other general meeting of the company, and
  - (b) no notice under this section was given in relation to any other general meeting held before the next accounts meeting.”;
- (e) in subsection (4), after “subsection (2)” insert “or (2A)”;
- (f) in subsection (8), after paragraph (b) insert—
  - “(c) “unquoted traded company” means a traded company (as defined by section 360C) that is not a quoted company.”.

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(7) Section 439 was amended by section 79 of the Enterprise and Regulatory Reform Act 2013.

(8) Section 439A was inserted by section 79 of the Enterprise and Regulatory Reform Act 2013.

#### **Amendments to section 440**

**21.** In section 440(1) (quoted companies: offences in connection with procedure for approval)(**9**)—

- (a) in the heading, after “companies” insert “and traded companies”;
- (b) in subsection (1), for “or (2)” substitute “, (2) or (2A)”.

#### **Amendments to section 446**

**22.** In section 446 (filing obligations of unquoted companies)(**10**)—

- (a) in subsection (1)—
  - (i) omit “and” at the end of paragraph (b);
  - (ii) after paragraph (b), insert—
    - “(ba) any directors’ remuneration report, and”;
- (b) in subsection (2), after “directors’ report” insert “, any directors’ remuneration report”;
- (c) in subsection (3), after “directors’ report” insert “, any directors’ remuneration report”.

#### **Amendment to section 471**

**23.** In section 471(2) (meaning of “annual accounts” and related expressions)(**11**), after paragraph (aa) insert—

- “(ab) the directors’ remuneration report (if any),”.

#### **Amendment to section 474**

**24.** In section 474(1) (minor definitions)(**12**), in the definition of “traded company”, after “traded company” insert “, unless the context otherwise requires,”.

### **CHAPTER 3**

#### **Amendments to Part 16 (audit)**

#### **Amendment to section 497**

**25.** In section 497 (auditor’s report on auditable part of directors’ remuneration report)—

- (a) in subsection (1), after “quoted company” insert “or unquoted traded company”;
- (b) after subsection (2) insert—
  - “(3) In this section “unquoted traded company” means a traded company (as defined by section 360C) that is not a quoted company.”.

#### **Amendments to section 498**

**26.** In section 498 (duties of auditor)—

- (a) in subsections (1)(c) and (2)(c), after “quoted company” insert “or unquoted traded company”;

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(9) Section 440 was amended by section 81 of the Enterprise and Regulatory Reform Act 2013.

(10) Subsections (1) and (2) of section 446 were amended by [S.I. 2009/1581](#) and [2013/1970](#); subsection (3) was amended by [S.I. 2013/1970](#).

(11) Section 471(2) was amended by [S.I. 2013/1970](#).

(12) “traded company” was inserted in section 474(1) by [S.I. 2015/980](#).

(b) after subsection (6) insert—

“(7) In this section “unquoted traded company” means a traded company (as defined by section 360C) that is not a quoted company.”.

#### CHAPTER 4

Amendment to Schedule 8 (index of defined expressions)

#### **Amendment to Schedule 8**

**27.** In Schedule 8 (index of defined expressions), at the appropriate place insert—

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“unquoted traded company (in Chapter 4A of section 226A(1))”  
Part 10)

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