



Companies Act 1976

1976 CHAPTER 69

PART I

ACCOUNTS, ACCOUNTING RECORDS AND AUDITORS

Duty to prepare, lay and deliver accounts by reference to accounting reference periods

1 Duty to prepare, lay and deliver accounts by reference to accounting reference periods

- (1) The directors of every company shall in respect of each accounting reference period of the company prepare a profit and loss account for a period determined by reference to that accounting reference period in accordance with subsections (2) and (3) below; and the period in respect of which any such account prepared under this section is made up shall be a financial year of the company (whether it is a year or not).
- (2) The period in respect of which a profit and loss account prepared under this section in respect of the first accounting reference period of a company is to be made up shall be a period beginning with the first day of the accounting reference period and ending with—
 - (a) the date on which the accounting reference period ends ; or
 - (b) such other date, not being more than seven days before or more than seven days after the end of the accounting reference period, as the directors may determine.
- (3) The period in respect of which a profit and loss account prepared under this section in respect of any accounting reference period of a company other than the first is to be made up shall be a period beginning with the day after the date to which the last preceding profit and loss account prepared under this section was made up and ending as mentioned in subsection (2) above.
- (4) The directors of every company shall prepare a balance sheet as at the date to which any profit and loss account prepared under this section is made up.

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- (5) References hereafter in this section to documents required to be comprised in the accounts of a company in respect of any accounting reference period are references to the profit and loss account and balance sheet required under the preceding provisions of this section to be prepared in the case of that company in respect of that accounting reference period, and include references—
- (a) to the report of the auditors required by section 156(1) of the Act of 1948 to be attached to that balance sheet; and
 - (b) to the report of the directors required by section 157(1) of that Act to be so attached.
- (6) In respect of each accounting reference period of a company the directors of the company shall lay before the company in general meeting a copy of every document required to be comprised in the accounts of the company in respect of that period.
- (7) Subject to subsection (8) below, in respect of each accounting reference period of a company the directors of the company—
- (a) shall deliver to the registrar of companies a copy of every document required to be comprised in the accounts of the company in respect of that period ; and
 - (b) if any such document is in a language other than English, shall annex to the copy so delivered to the registrar a translation of it into English certified in the prescribed manner to be a correct translation.
- (8) The directors of an unlimited company shall not be required under subsection (7) above to deliver to the registrar of companies copies of documents required to be comprised in the accounts of the company in respect of any accounting reference period if—
- (a) at no time during that accounting reference period has the company been, to its knowledge, the subsidiary of a company that was then limited and at no such time, to its knowledge, have there been held or been exercisable, by or on behalf of two or more companies that were then limited, shares or powers which, if they had been held or been exercisable by one of them, would have made the company its subsidiary; and
 - (b) at no such time has the company been the holding company of a company which was then limited ; and
 - (c) at no such time has the company been carrying on business as the promoter of a trading stamp scheme within the meaning of the Trading Stamps Act 1964.

References in this subsection to a company that was limited at a particular time shall be taken as referring to a body corporate (whether incorporated under the law in force in Great Britain or the law in force elsewhere) the liability of whose members was at that time limited.

- (9) Sections 127 and 148 of the Act of 1948 (which are superseded by this section) shall cease to have effect; and in section 455(1) of that Act, for the definition of "financial year " there shall be substituted—
- “" financial year "—
- (a) in relation to any body corporate to which section 1 of the Companies Act 1976 applies, means any period in respect of which any profit and loss account prepared under that section as it applies to that body corporate is made up; and

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- (b) in relation to any other body corporate, means any period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up ;
whether, in either case, that period is a year or not.”.
- (10) In section 9(3) of the European Communities Act 1972, for paragraph (d) (official notification of receipt by registrar of annual return of company) there shall be substituted—
“(d) any documents delivered by a company in pursuance of section 1(7) of the Companies Act 1976”.
- (11) For the purposes of this Part of this Act any reference to a profit and loss account shall be taken, in the case of a company not trading for profit, as referring to an income and expenditure account.

2 Accounting reference period of a company

- (1) Any company may give notice in the prescribed form to the registrar of companies specifying a date in the calendar year as being the date on which in each successive calendar year an accounting reference period of the company is to be treated as coming to an end; but no such notice shall have effect unless it is given before the date on which section 1 above comes into operation or before the end of the period of six months beginning with the date of the incorporation of the company, whichever last occurs.
- (2) Subject to section 3 and subsection (3) below—
(a) in the case of a company which has given notice in accordance with subsection (1) above, the date specified in that notice ; and
(b) in any other case, 31st March;
shall be the company's accounting reference date.
- (3) In the case of a company which has not given notice in accordance with subsection (1) above, the registrar of companies may during the period of two years beginning with the date on which section 1 above comes into operation determine, with the consent of the company, that some date other than 31st March shall be the date on which in each successive calendar year an accounting reference period of the company is to be treated as coming to an end; and, subject to section 3 below, the date so determined shall be and, in relation to any occurrence of that date before it was so determined, shall be treated as having been the company's accounting reference date instead of 31st March.
- (4) Subject to section 3 below, the first accounting reference period of a company shall be such period ending with the company's accounting reference date as—
(a) begins or began on the day after the date to which the profit and loss account of the company last laid before the company in general meeting before the coming into operation of section 1 above (whether laid in the year immediately before the coming into operation of that section or earlier) is or was made up; or
(b) if no profit and loss account of the company is or was so laid before the coming into operation of that section, begins or began on the date of the incorporation of the company, whether that date is or was a date after or a date before the coming into operation of that section;
and (in either case) is or was a period exceeding six months and not exceeding eighteen months.

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- (5) Subject to section 3 below, in the case of any company each successive period of twelve months beginning after the end of the company's first accounting reference period and ending with the company's accounting reference date shall also be an accounting reference period of the company.
- (6) The requirements of section 1 above apply in relation to every period which is or was an accounting reference period of a company by virtue of this section or section 3 below, whether or not that period falls wholly or partly after the date on which section 1 above comes into operation.

3 Alteration of accounting reference period

- (1) At any time during the course of a period which is an accounting reference period of a company by virtue of section 2 above or this section the company may give notice in the prescribed form to the registrar of companies specifying a date in the calendar year (" the new accounting reference date ") on which that accounting reference period (" the current accounting reference period") and each subsequent accounting reference period of the company is to be treated as coming or (as the case may require) as having come to an end.
- (2) Subject to subsection (3) below, at any time after the end of a period which was an accounting reference period of a company by virtue of section 2 above or this section the company may give notice in the prescribed form to the registrar of companies specifying a date in the calendar year (" the new accounting reference date ") on which that accounting reference period (" the previous accounting reference period") and each subsequent accounting reference period of the company is to be treated as coming or (as the case may require) as having come to an end.
- (3) A notice under subsection (2) above—
 - (a) shall not have effect unless the company is a subsidiary or holding company of another company and the new accounting reference date coincides with the accounting reference date of that other company; and
 - (b) shall not have effect if the period allowed for laying and delivering accounts in relation to the previous accounting reference period has already expired at the time when the notice is given.
- (4) A notice under this section shall state whether the current or previous accounting reference period of the company—
 - (a) is to be treated as shortened, so as to come to an end, or (as the case may require) to be treated as having come to an end, on the new accounting reference date on the first occasion on which that date falls or fell after the beginning of that accounting reference period; or
 - (b) is to be treated as extended, so as to come to an end, or (as the case may require) to be treated as having come to an end, on the new accounting reference date on the second occasion on which that date falls or fell after the beginning of that accounting reference period.
- (5) A notice under this section which states that the current or previous accounting reference period of the company is to be extended shall not have effect if the current or previous accounting reference period as extended in accordance with the notice would exceed eighteen months.

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- (6) Subject to any direction given under subsection (7) below, a notice under this section which states that the current or previous accounting reference period of the company is to be extended shall not have effect unless—
- (a) no earlier accounting reference period of the company has been extended by virtue of a previous notice given by the company under this section; or
 - (b) the notice is given not less than five years after the date on which any earlier accounting reference period of the company which was so extended came to an end; or
 - (c) the company is a subsidiary or holding company of another company and the new accounting reference date coincides with the accounting reference date of that other company.
- (7) The Secretary of State may, if he thinks fit, direct that subsection (6) above shall not apply in relation to any notice already given by a company under this section or (as the case may be) in relation to any notice which may be so given.
- (8) Where a company has given notice which has effect in accordance with the preceding provisions of this section, and that notice has not been superseded by a subsequent notice given by the company which has effect in accordance with those provisions, the new accounting reference date specified in the notice shall be the company's accounting reference date, in substitution for the date which, by virtue of section 2 above or this section, was the company's accounting reference date at the time when the notice was given.
- (9) Where by virtue of a notice under this section one date is substituted for another as the accounting reference date of a company—
- (a) the current or previous accounting reference period of the company, shortened or extended (as the case may be) in accordance with the notice as mentioned in subsection (4) above ; and
 - (b) each successive period of twelve months beginning after the end of that accounting reference period, as so shortened or extended, and ending with the new accounting reference date;
- shall be or (as the case may require) shall be treated as having been an accounting reference period of the company, instead of any period which would be an accounting reference period of the company if the notice had not been given.
- (10) Nothing in this section shall affect any accounting reference period of the company which—
- (a) in the case of a notice under subsection (1) above, is earlier than the current accounting reference period, or
 - (b) in the case of a notice under subsection (2) above is earlier than the previous accounting reference period.

4 Penalties for not complying with section 1 within the period allowed for laying and delivering accounts

- (1) If in respect of any accounting reference period of a company any of the requirements of subsection (6) or of subsection (7) of section 1 above is not complied with before the end of the period allowed for laying and delivering accounts, then, subject to subsection (2) below, every person who immediately before the end of the last-mentioned period was a director of the company shall, in respect of each of those subsections which is not so complied with, be guilty of an offence and liable on

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summary conviction to a fine not exceeding the aggregate of £400 and £40 for each day which falls—

- (a) after the end of the period allowed for laying and delivering accounts, and
 - (b) before the earliest day by which all the requirements of subsection (6) or (as the case may be) of subsection (7) have been complied with.
- (2) Where a person is charged with an offence under subsection (1) above in respect of any requirements of subsection (6) or of subsection (7) of section 1 above, it shall be a defence for him to prove that he took all reasonable steps for securing that those requirements would be complied with before the end of the period allowed for laying and delivering accounts.
- (3) If, in respect of any accounting reference period of a company, any of the requirements of section 1(7) above is not complied with before the end of the period allowed for laying and delivering accounts, the company shall be liable to a penalty (recoverable in civil proceedings by the Secretary of State) of an amount determined in accordance with subsection (4) below by reference to the length of the period between the end of the first-mentioned period and the earliest day by which all those requirements have been complied with.
- (4) The amount of the penalty in subsection (3) above is—
- (a) £20 where the period is a period of not more than one month;
 - (b) £50 where the period is a period of more than one month but not more than three months ;
 - (c) £100 where the period is a period of more than three months but not more than six months ;
 - (d) £200 where the period is a period of more than six months but not more than twelve months ; and
 - (e) £450 where the period is a period of more than twelve months.
- (5) For the purposes of any proceedings under this section with respect to any requirement to lay a copy of a document before a company in general meeting, or to deliver a copy of a document to the registrar of companies, it shall not be a defence to prove that the document in question was not in fact prepared as required by subsection (1) or subsection (4) of section 1 above.

5 Default order in case of continued failure to comply with section 1(7) after the end of the period allowed for laying and delivering accounts

- (1) If—
- (a) in respect of any accounting reference period of a company any of the requirements of section 1(7) above has not been complied with before the end of the period allowed for laying and delivering accounts ; and
 - (b) the directors of the company fail to make good the default within fourteen days after the service of a notice on them requiring them to do so ;
- the court may, on an application made to the court by any member or creditor of the company or by the registrar of companies, make an order directing the directors of the company or any of them to make good the default within such time as may be specified in the order.
- (2) Any order made under subsection (1) above may provide that all costs of and incidental to the application shall be borne by the directors of the company.

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(3) Nothing in this section shall be taken to prejudice the operation of section 4 above.

6 The period allowed for laying and delivering accounts

(1) Subject to section 7 below, the period allowed for laying and delivering accounts in relation to any accounting reference period of a company shall be determined for the purposes of sections 4 and 5 above in accordance with the following provisions of this section.

(2) Subject to the following provisions of this section, the period allowed for laying and delivering accounts in relation to any accounting reference period of a company—

- (a) if it is a private company, shall be the period of ten months after the end of the accounting reference period ; or
- (b) if it is a company other than a private company, shall be the period of seven months after the end of the accounting reference period.

(3) Where a company carries on business, or has interests, outside the United Kingdom, the Channel Islands and the Isle of Man and, in respect of any accounting reference period of the company, the directors, before the end of the period allowed in relation to that accounting reference period by virtue of subsection (2) above, give to the registrar of companies a notice in the prescribed form—

- (a) stating that the company so carries on business or has such interests; and
- (b) claiming an extension of the period so allowed by a further period of three months;

the period allowed for laying and delivering accounts in relation to that accounting reference period of the company shall be three months longer than would otherwise be allowed by virtue of that subsection.

(4) Subject to the following provisions of this section, where the first accounting reference period of a company—

- (a) begins or began on the date of the incorporation of the company ; and
- (b) is or was a period exceeding twelve months;

the period which would otherwise be the period allowed for laying and delivering accounts in relation to that accounting reference period in accordance with the preceding provisions of this section shall be treated as reduced by the number of days by which that accounting reference period is or was longer than twelve months.

(5) The period allowed for laying and delivering accounts in relation to the first accounting reference period of a company shall not by virtue of subsection (4) above be treated as reduced to a period of less than three months after the end of that accounting reference period.

(6) Subject to subsection (7) below, in relation to the accounting reference period of a company as respects which notice is given by the company under section 3 above, and which by virtue of that section is to be treated as shortened in accordance with that notice, the period allowed for laying and delivering accounts shall be—

- (a) the period allowed in relation to that accounting reference period of the company in accordance with the preceding provisions of this section ; or
- (b) the period of three months beginning with the date of the notice;

whichever of those periods last expires.

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- (7) If for any special reason the Secretary of State thinks fit to do so, he may by notice in writing to a company extend, by such further period as may be specified in the notice, the period which in accordance with the preceding provisions of this section is the period allowed for laying and delivering accounts in relation to any accounting reference period of the company.

7 Transitional provisions and savings

- (1) In relation to any accounting reference period of a company ending before the date on which section 1 above comes into operation, if the period allowed for laying and delivering accounts in relation to that accounting reference period determined in accordance with section 6(2) to (4) above would expire before the end of the period of three months beginning with that date, the period allowed for laying and delivering accounts in relation to that accounting reference period shall instead, subject to subsection (2) below, be treated for the purposes of sections 4 and 5 above as expiring at (and not before) the end of those three months.
- (2) If for any special reason the Secretary of State thinks fit to do so, he may by notice in writing to a company extend, by such further period as may be specified in the notice, the period which in accordance with subsection (1) above is the period allowed for laying and delivering accounts in relation to any accounting reference period of the company.
- (3) The repeal by this Act of section 127 of the Act of 1948 (which is superseded by section 1 above) shall not affect any duty imposed by section 127 to annex to an annual return of a company made after the coming into operation of section 1 above a copy of any balance sheet laid before the company in general meeting before the coming into operation of that section and of any related document.
- (4) The substitution by section 1 (9) above of a new definition for the definition of " financial year " in section 455(1) of the Act of 1948 shall not affect the operation of the original definition in relation to a period before the beginning of a company's first accounting reference period.
- (5) The substitution by section 1(10) above of a new paragraph in place of paragraph (d) of section 9(3) of the European Communities Act 1972 shall not affect the operation of the original paragraph (d) in relation to an annual return to which a copy of any balance sheet or related document is annexed in pursuance of section 127 of the Act of 1948.
- (6) For the purposes of determining, in any proceedings under section 4 or 5 above, the date on which the first accounting reference period of a company incorporated before the coming into operation of section 1 above began—
- (a) where a copy of any profit and loss account of the company which was laid before the company in general meeting before the coming into operation of section 1 above has been annexed to any annual return made by the company, it shall be presumed that no such account has been laid before the company in general meeting since the last such account so annexed was so laid and before the coming into operation of that section; and
 - (b) in any other case it shall be presumed that no such account has been laid before the company in general meeting since the date of the incorporation of the company and before the coming into operation of that section;
- unless, in either case, the contrary is proved.

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- (7) No proceedings shall be instituted after the coming into operation of section 1 above for an offence under section 148 of the Act of 1948.
- (8) For the purposes of subsections (3) and (5) above the following are documents related to any balance sheet laid before a company in general meeting—
- (a) any such other document as is mentioned in paragraph (a) of subsection (1) of section 127 of the Act of 1948 ; and
 - (b) any such report as is mentioned in paragraph (b) of that section.

Group accounts

8 Group accounts

- (1) For subsection (1) of section 150 of the Act of 1948 (obligations of holding company with respect to group accounts) there shall be substituted—

“(1) Where at the end of its financial year a company has subsidiaries, the documents required in accordance with subsections (1) and (4) of section 1 of the Companies Act 1976 to be prepared in respect of the accounting reference period by reference to which, in accordance with that section, that financial year was determined shall, subject to the next following subsection, include accounts or statements (in this Act referred to as 'group accounts') dealing with the state of affairs and profit or loss of the company and the subsidiaries; and any such group accounts shall accordingly be included among the documents required to be comprised in the accounts of the company in respect of that accounting reference period for the purposes of subsections (6) to (8) of that section.”

- (2) For subsection (3) of that section there shall be substituted—

“(3) If any group accounts of which a copy is laid before a company in general meeting or delivered to the registrar of companies do not comply with the requirements of section 151 or 152 of this Act, every person who, at the time when the copy was so laid or delivered, was a director of the company shall be guilty of an offence and liable—

- (a) on conviction on indictment, to a fine ;
- (b) on summary conviction, to a fine not exceeding £400:

Provided that in any proceedings against a person for an offence under this section it shall be a defence for him to prove that he took all reasonable steps for securing compliance with the requirements in question.”

Duty to prepare and deliver accounts in the case of overseas companies

9 Duty to prepare and deliver accounts in the case of overseas companies

- (1) Every such company as is described in section 406 of the Act of 1948 (hereafter in this Act referred to as an "overseas company") shall in respect of each accounting reference period of the company prepare a balance sheet and profit and loss account and, if the company is a holding company, group accounts, made up by reference to such date or dates, and (subject to any prescribed exceptions or modifications) in such form, containing such particulars and having annexed or attached thereto such documents,

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as would have been required in accordance with the provisions of the Act of 1948 and this Act if it had been a company within the meaning of the Act of 1948.

- (2) In respect of each accounting reference period of the company, an overseas company shall deliver to the registrar of companies a copy of every balance sheet, account or other document required by virtue of subsection (1) above to be prepared in respect of that accounting reference period and, if any such balance sheet, account or document is in a language other than English, shall annex to the copy so delivered to the registrar a certified translation of it into English.
- (3) Where in relation to any accounting reference period of an overseas company the directors of the company would be exempt by virtue of subsection (8) of section 1 above from the requirements of subsection (7) of that section if the company were a company within the meaning of the Act of 1948, nothing in subsection (1) above shall require the company to prepare any balance sheet or other document in respect of that accounting reference period.
- (4) Section 410 of the Act of 1948 (which is superseded by this section) shall cease to have effect.

10 Accounting reference period of overseas company

- (1) Sections 2 and 3 above shall apply in relation to an overseas company subject to the following modifications.
- (2) The reference in subsection (1) of section 2 above to the date of the incorporation of the company shall be construed in relation to an overseas company as referring to the date on which a place of business in Great Britain is or was established by the company.
- (3) Subject to section 3 above, the first accounting reference period of an overseas company shall be, instead of the period mentioned in subsection (4) of section 2 above, such period ending with the company's accounting reference date as—
 - (a) begins or began on the day after the date to which the last profit and loss account of the company of which a copy was delivered to the registrar of companies before the coming into operation of section 1 above (whether delivered in the year immediately before the coming into operation of that section or earlier) is or was made up; or
 - (b) if no profit and loss account of the company was so delivered before the coming into operation of that section, begins or began on a date determined by the company in accordance with subsection (4) below, whether that date is or was a date after or a date before the coming into operation of that section; and (in either case) is or was a period exceeding six months and not exceeding eighteen months.
- (4) The date determined by an overseas company for the purposes of subsection (3)(b) above shall be a date not later than the date on which a place of business in Great Britain is or was established by the company.
- (5) The reference in subsection (6) of section 2 above to the requirements of section 1 above shall be construed in relation to an overseas company as a reference to the requirements of section 9 above.
- (6) References in sections 2 and 3 above to a period which is or was an accounting reference period of a company by virtue of section 2 above shall be construed as

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including references to a period which is or was an accounting reference period of an overseas company by virtue of subsection (3) above.

- (7) Subsections (6) and (7) of section 3 above shall be omitted in the application of that section in relation to an overseas company.

11 Penalty for not complying with section 9 within the period allowed for delivering accounts

- (1) If in respect of any accounting reference period of an overseas company any of the requirements of section 9(2) above is not complied with before the end of the period allowed for delivering accounts, the company and every officer or agent of the company who knowingly and wilfully authorises or permits the default shall in respect of the company's failure to comply with the requirement or requirements in question be guilty of an offence and liable on summary conviction to a fine not exceeding the aggregate of £400 and £40 for each day which falls—

- (a) after the end of the period allowed for delivering accounts; and
- (b) before the earliest day by which all the requirements of section 9(2) have been complied with.

- (2) Subject to subsection (3) below, the period allowed for delivering accounts in relation to any accounting reference period of an overseas company shall be the period which would be the period allowed for laying and delivering accounts in relation to that accounting reference period determined in accordance with section 6 and section 7(1) and (2) above if the company were a company within the meaning of the Act of 1948 and the following subsection were substituted for subsections (2) and (3) of section 6—

“(2) Subject to the following provisions of this section, the period allowed for laying and delivering accounts in relation to any accounting reference period of a company shall be the period of thirteen months after the end of the accounting reference period”.

- (3) In the application of section 6(4) above for the purposes of this section, the reference to the date of the incorporation of the company shall be construed as referring to the date determined by the company for the purposes of section 10(3)(6) above.
- (4) For the purposes of any proceedings under this section with respect to any requirement to deliver a copy of a document to the registrar of companies, it shall not be a defence to prove that the document in question was not in fact prepared as required by section 9(1) above.

Accounting records

12 Accounting records

- (1) Every company shall cause accounting records to be kept in accordance with the provisions of this section.
- (2) The accounting records shall be sufficient to show and explain the company's transactions.
- (3) The accounting records shall be such as to—
- (a) disclose with reasonable accuracy, at any time, the financial position of the company at that time ; and

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- (b) enable the directors to ensure that any balance sheet or profit and loss account prepared by them under section 1 above complies with the requirements of section 149 of the Act of 1948 (balance sheet to give a true and fair view of the company's state of affairs and profit and loss account to give a true and fair view of the company's profit or loss, etc.).
- (4) The accounting records shall in particular contain—
 - (a) entries from day to day of all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;
 - (b) a record of the assets and liabilities of the company; and
 - (c) where the company's business involves dealing in goods, the statements mentioned in subsection (5) below.
- (5) The statements referred to in subsection (4)(c) above are—
 - (a) statements of stock held by the company at the end of each financial year of the company;
 - (b) all statements of stocktakings from which any such statement as is mentioned in paragraph (a) above 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 the goods and the buyers and sellers to be identified.
- (6) Subject to subsection (7) below, the accounting records shall be kept at the registered office of the company or at such other place as the directors of the company think fit and shall at all times be open to inspection by the officers of the company.
- (7) If accounting records are kept at a place outside Great Britain, accounts and returns with respect to the business dealt with in the accounting records so kept shall be sent to, and kept at a place in, Great Britain and shall at all times be open to inspection by the officers of the company.
- (8) The accounts and returns to be sent to Great Britain in accordance with subsection (7) above shall be such as to—
 - (a) disclose with reasonable accuracy the financial position of the business in question at intervals not exceeding six months; and
 - (b) enable the directors to ensure that any balance sheet or profit and loss account prepared by them under section 1 above complies with the requirements of the said section 149 of the Act of 1948.
- (9) Subject to any direction with respect to the disposal of any records kept by a company given under any rules made under section 365(1) of the Act of 1948 (winding up rules), any accounting records which a company is required by this section to keep shall be preserved by it—
 - (a) in the case of a private company, for three years from the date on which they are made ; and
 - (b) in any other case, for six years from the date on which they are made.
- (10) If a company fails to comply with any provision of subsections (1) to (7) above, every officer of the company who is in default shall be guilty of an offence unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on the default was excusable; and if any officer of the company fails to take all reasonable steps for securing compliance by the company

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with subsection (9) above or has intentionally caused any default by the company thereunder he shall be guilty of an offence.

- (11) Any person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine, or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding £400, or to both.
- (12) Section 147 of the Act of 1948 (which is superseded by this section) and section 331 of that Act (liability where proper books of account not kept in period preceding winding up) shall cease to have effect.

Auditors

13 Qualifications of auditors

- (1) Subject to subsection (2) below, the bodies of accountants recognised by the Secretary of State for the purposes of paragraph (a) of subsection (1) of section 161 of the Act of 1948 (bodies whose members are qualified for appointment as auditors of company) shall be—
- the Institute of Chartered Accountants in England and Wales;
 - the Institute of Chartered Accountants of Scotland ;
 - the Association of Certified Accountants ;
 - the Institute of Chartered Accountants in Ireland.
- (2) The Secretary of State may by regulations made by statutory instrument amend subsection (1) above by adding or deleting any body, but shall not make any regulations—
- (a) adding any body ; or
 - (b) deleting any body which has not consented in writing to its deletion;
- unless he has published notice of his intention to do so in the London and Edinburgh Gazettes at least four months before making the regulations.
- (3) The Secretary of State may refuse an authorisation under paragraph (b) of subsection (1) of the said section 161 to a person as having qualifications obtained outside the United Kingdom if it appears to him that the country in which the qualifications were obtained does not confer on persons qualified in the United Kingdom privileges corresponding to those conferred by that subsection.
- (4) No authorisation shall be granted by the Secretary of State after the expiration of twelve months from the coming into operation of this section—
- (a) under paragraph (b) of subsection (1) of the said section 161 to a person as having obtained adequate knowledge and experience in the course of his employment by a member of a body of accountants recognised for the purposes of paragraph (a) of that subsection; or
 - (b) under section 13(1) of the Act of 1967 (transitional provision for persons who have been auditors of exempt private companies).
- (5) No person shall act as auditor of a company at a time when he knows that he is disqualified for appointment to that office; and if an auditor of a company to his knowledge becomes so disqualified during his term of office he shall thereupon vacate

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his office and give notice in writing to the company that he has vacated it by reason of such disqualification.

- (6) Any person who acts as auditor in contravention of subsection (5) above or fails without reasonable excuse to give notice of vacating his office as required by that subsection shall be guilty of an offence and liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding £40 for every day during which the contravention continues.

14 Appointment and removal of auditors

- (1) Every company shall at each general meeting of the company at which there are complied with—

- (a) the requirements of subsection (6) of section 1 above, or
- (b) in relation to any time before the coming into operation of that section, the requirements of section 148 of the Act of 1948 (profit and loss account and balance sheet to be laid before company in general meeting),

appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next general meeting of the company at which those requirements are complied with.

- (2) Where at any general meeting of a company at which the requirements mentioned in subsection (1) above are complied with no auditors are appointed or reappointed, the Secretary of State may appoint a person to fill the vacancy; and the company shall, within one week of the Secretary of State's power under this subsection becoming exercisable, give the Secretary of State notice of that fact.
- (3) The first auditors of a company may be appointed by the directors at any time before the first general meeting of the company at which the requirements mentioned in subsection (1) above are complied with, and auditors so appointed shall hold office until the conclusion of that meeting.
- (4) If the directors fail to exercise their powers under subsection (3) above, those powers may be exercised by the company in general meeting.
- (5) The directors, or the company in general meeting, may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act.
- (6) A company may by ordinary resolution remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him; and where a resolution removing an auditor is passed at a general meeting of a company, the company shall within fourteen days give notice of that fact in the prescribed form to the registrar of companies.
- (7) If a company fails to give any such notice as is mentioned in subsections (2) or (6) above, the company and every officer of the company who is in default shall be guilty of an offence and liable, on summary conviction, to a default fine.
- (8) The remuneration of the auditor of a company—
- (a) in the case of an auditor appointed by the directors or by the Secretary of State, may be fixed by the directors or by the Secretary of State, as the case may be;
 - (b) subject to paragraph (a) above, shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine.

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For the purpose of this subsection " remuneration " includes any sums paid by the company in respect of the auditor's expenses.

- (9) Where a company's auditor or auditors are holding office at the date of the coming into operation of this section, nothing in subsection (1) above shall be taken as terminating their appointment, or as requiring either their reappointment or the appointment of other auditors, before the conclusion of the annual general meeting of the company held next after that date ; and subsections (1) and (2) above shall apply in relation to that meeting as if it were a general meeting of the company at which the requirements mentioned in subsection (1) above were complied with (whether it is such a meeting or not).
- (10) Nothing in subsection (6) above shall be taken as depriving a person removed thereunder of compensation or damages payable to him in respect of the termination of his appointment as auditor or of any appointment terminating with that as auditor.
- (11) Section 159 of the Act of 1948 (which is superseded by this section) shall cease to have effect.
- (12) The repeal by this Act of subsection (2) of the said section 159 (existing auditors of company normally to be treated as reappointed without the passing of any resolution) shall not affect its operation in relation to any meeting of a company commencing within two months of the coming into operation of this section ; and in relation to any such meeting section 15(1) below shall apply also to a resolution providing expressly that a retiring auditor shall not be reappointed.

15 Supplementary provisions relating to appointment and removal of auditors

- (1) Special notice shall be required for a resolution at a general meeting of a company—
 - (a) appointing as auditor a person other than a retiring auditor; or
 - (b) filling a casual vacancy in the office of auditor ; or
 - (c) reappointing as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy ; or
 - (d) removing an auditor before the expiration of his term of office.
- (2) On receipt of notice of such an intended resolution as aforesaid the company shall forthwith send a copy thereof—
 - (a) to the person proposed to be appointed or removed, as the case may be ;
 - (b) in a case within subsection (1)(a) above, to the retiring auditor; and
 - (c) where, in a case within subsection (1)(b) or (c) above, the casual vacancy was caused by the resignation of an auditor, to the auditor who resigned.
- (3) Where notice is given of such a resolution as is mentioned in subsection (1)(a) or (d) above and the retiring auditor or, as the case may be, the auditor proposed to be removed makes with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall (unless the representations are received by it too late for it to do so)—
 - (a) in any notice of the resolution given to members of the company state the fact of the representations having been made, and
 - (b) send a copy of the representations to every member of the company to whom notice of the meeting is or has been sent.

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- (4) If a copy of any such representations as are mentioned in subsection (3) above are not sent out as required by that subsection because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.
- (5) Copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter ; and the court may order the company's costs on an application under this subsection to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.
- (6) An auditor of a company who has been removed shall be entitled to attend—
- (a) the general meeting at which his term of office would otherwise have expired, and
 - (b) any general meeting at which it is proposed to fill the vacancy caused by his removal,
- and to receive all notices of, and other communications relating to, any such meeting which any member of the company is entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the company.
- (7) Section 160 of the Act of 1948 (which is superseded by this section) shall cease to have effect.

16 Resignation of auditors

- (1) An auditor of a company may resign his office by depositing a notice in writing to that effect at the registered office of the company; and any such notice shall operate to bring his term of office to an end on the date on which the notice is deposited or on such later date as may be specified therein.
- (2) An auditor's notice of resignation shall not be effective unless it contains either—
- (a) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the members or creditors of the company ; or
 - (b) a statement of any such circumstances as aforesaid.
- (3) Where a notice having effect under this section is deposited at a company's registered office the company shall within fourteen days send a copy of the notice—
- (a) to the registrar of companies ; and
 - (b) if the notice contained a statement under subsection (2)(b) above, to every person who under section 158(1) of the Act of 1948 is entitled to be sent copies of the documents there mentioned.
- (4) The company or any person who claims to be aggrieved may, within fourteen days of the receipt by the company of a notice containing a statement under subsection (2)(b) above apply to the court for an order under subsection (5) below.
- (5) If the court, on an application under' subsection (4) above, is satisfied that the auditor is using the notice to secure needless publicity for defamatory matter, it may by order direct that copies of the notice need not be sent out; and the court may further order

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the company's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.

- (6) The company shall, within fourteen days of the court's, decision, send to the persons mentioned in subsection (3) above—
- (a) if the court makes an order under subsection (5) above, a statement setting out the effect of the order ;
 - (b) if the court does not make an order under that subsection, a copy of the notice containing the statement under subsection (2) (b) above.
- (7) If default is made in complying with subsection (3) or (6) above, the company and every officer of the company who is in default shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine ;
 - (b) on summary conviction, to a default fine of £40.
- (8) Section 428 of the Act of 1948 (enforcement of duty of company to make returns to registrar) shall have effect as if subsections (3) and (6) above were provisions of that Act.

17 Right of auditor who resigns to requisition meeting of company, etc.

- (1) Where an auditor's notice of resignation contains a statement under section 16(2)(b) above there may be deposited with the notice a requisition signed by the auditor calling on the directors of the company forthwith duly to convene an extraordinary general meeting of the company 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.
- (2) Where an auditor's notice of resignation contains any such statement as aforesaid and the auditor requests the company to circulate to its members—
- (a) before the general meeting at which his term of office would otherwise have expired ; or
 - (b) before any general meeting at which it is proposed to fill the vacancy caused by his resignation or convened on his requisition;
- a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation, the company shall (unless the statement is received by it too late for it to do so)—
- (i) in any notice of the meeting given to members of the company state the fact of the statement having been made, and
 - (ii) send a copy of the statement to every member of the company to whom notice of the meeting is or has been sent.
- (3) If the directors do not within twenty-one 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 twenty-eight days after the date on which the notice convening the meeting is given, every director who failed to take all reasonable steps to secure that a meeting was convened as mentioned above shall be guilty of an offence and liable—
- (a) on conviction on indictment, to a fine ;
 - (b) on summary conviction, to a fine not exceeding £400;
- and if a copy of any such statement as is mentioned in subsection (2) above is not sent out as required by that subsection because received too late or because of the

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company's default, the auditor may (without prejudice to his right to be heard orally) require that the statement shall be read out at the meeting.

- (4) 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 company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this subsection to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.
- (5) An auditor of a company who has resigned his office shall be entitled to attend any such meeting as is mentioned in subsection (2) (a) or (b) above and to receive all notices of, and other communications relating to, any such meeting which any member of the company is entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the company.

18 Powers of auditors in relation to subsidiaries

- (1) Where a company (" the holding company ") has a subsidiary, then—
 - (a) if the subsidiary is a body corporate incorporated in Great Britain, it shall be the duty of the subsidiary and its auditors to give to the auditors of the holding company such information and explanation as those auditors may reasonably require for the purposes of their duties as auditors of the holding company;
 - (b) in any other case, it shall be the duty of the holding company, if required by its auditors to do so, to take all such steps as are reasonably open to it to obtain from the subsidiary such information and explanation as aforesaid.
- (2) If a subsidiary or holding company fails to comply with subsection (1) above the subsidiary or holding company and every officer thereof who is in default shall be guilty of an offence; and if an auditor fails without reasonable excuse to comply with paragraph (a) of that subsection he shall be guilty of an offence.
- (3) A person guilty of an offence under this section shall be liable on summary conviction to a fine not exceeding £200.

19 False statements, etc. to auditors

- (1) An officer of a company who knowingly or recklessly makes a statement which—
 - (a) is misleading, false or deceptive in a material particular, and
 - (b) is a statement to which this section applies,shall be guilty of an offence.
- (2) This section applies to any statement made to the auditors of the company (whether orally or in writing) which conveys, or purports to convey, any information or explanation which they require, or are entitled to require, as auditors of the company.
- (3) Any person guilty of an offence under this section shall be liable—
 - (a) on conviction on indictment to imprisonment for a term not exceeding two years, or to a fine, or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding £400, or to both.

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20 Auditors of body which is both a company and a trade union, etc.

- (1) Subject to subsection (2) below, this section applies to every body which is both a company and a trade union or employers' association to which section 11 of the Trade Union and Labour Relations Act 1974 applies.
- (2) Where any such body as is mentioned in subsection (1) above has auditors who were appointed, before the coming into operation of this section, under subsection (3) of the said section 11 (duty to appoint auditors), this section shall not apply to that body until—
 - (a) the term of office of those auditors expires, or
 - (b) auditors are next appointed by or on behalf of that body under section 14(1) or (2) above,whichever of those events first occurs.
- (3) Subsection (3) of the said section 11 and paragraphs 6 to 15 of Schedule 2 to the said Act of 1974 (qualifications, appointment and removal of auditors) shall cease to have effect in relation to bodies to which this section applies.
- (4) The rights and powers conferred, and the duties imposed, by paragraphs 16 to 21 of the said Schedule 2 on the auditors of a body to which this section applies shall belong to the auditors from time to time appointed by or on behalf of that body under section 14 above.

PART II

MISCELLANEOUS AND SUPPLEMENTARY

Returns as to directors and registered office

21 Statement of first directors and secretary to be delivered on application for registration of company

- (1) With every memorandum delivered for registration under section 12 of the Act of 1948 there shall be delivered a statement in the prescribed form containing the names and relevant particulars of—
 - (a) the person who is, or the persons who are, to be the first director or directors of the company ; and
 - (b) the person who is, or the persons who are, to be the first secretary or joint secretaries of the company.
- (2) The relevant particulars mentioned above are—
 - (a) with respect to a person named as director, the particulars which by subsection (2) of section 200 of the Act of 1948 are required to be contained in the register kept under that section with respect to a director; and
 - (b) with respect to a person named as secretary or as one of joint secretaries, the particulars which by subsection (3) of that section are required to be contained in that register with respect to the secretary or, where there are joint secretaries, with respect to each of them.

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- (3) The statement required by this section shall be signed by or on behalf of the subscribers of the memorandum and shall contain a consent signed by each of the persons named in it as a director, as secretary or as one of joint secretaries to act in the relevant capacity.
- (4) Where the memorandum is delivered by a person as agent for the subscribers of the memorandum, the statement required by this section shall specify that fact and the name and address of that person.
- (5) The persons named in the statement required by this section as the director or directors, secretary or joint secretaries of a company shall, on the incorporation of the company, be deemed to have been respectively appointed as the first director or directors, secretary or joint secretaries of the company; and any appointment by any articles delivered with the memorandum of a person as director or secretary of the company shall be void unless he is named as a director or as secretary in the statement.
- (6) If a statement complying with the requirements of this section is not delivered as required by subsection (1) above with any memorandum delivered for registration under section 12 of the Act of 1948 the registrar of companies shall not register the memorandum or any articles delivered with it.

22 Notification of changes in directors and secretary, etc.

- (1) For subsections (4) and (5) of section 200 of the Act of 1948 (which require a company to make a return of its first directors and secretary and to notify any change) there shall be substituted—
 - “(4) The company shall within the period of fourteen days from the occurrence of—
 - (a) any change among its directors or in its secretary, or
 - (b) any change in the particulars contained in the register,
 send to the registrar of companies a notification in the prescribed form of the change and of the date on which it occurred ; and any notification of a person having become a director or secretary or one of joint secretaries of the company shall contain a consent signed by that person to act in the relevant capacity.”
- (2) Notwithstanding subsection (1) above—
 - (a) where the memorandum of a company has been delivered for registration under section 12 of the Act of 1948 before the coming into operation of section 21 above subsections (4) and (5) of section 200 of that Act, as originally enacted, shall continue to apply so as to require that company to send to the registrar of companies a return containing the particulars of its first directors and secretary specified in the register required to be kept under section 200 ; and
 - (b) those subsections, as originally enacted, shall continue to apply in relation to any change among a company's directors or in its secretary or in any of the particulars contained in that register which occurred before the coming into operation of this section.
- (3) In section 9(3) of the European Communities Act 1972 for paragraph (c) (official notification of receipt by registrar of return relating to a company's register of directors or notification of a change among its directors) there shall be substituted—
 - “(c) any notification of a change among the directors of a company”;

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but this subsection shall not affect the operation of the original paragraph (c) in relation to any return sent to the registrar of companies under section 200(4) of the Act of 1948 as originally enacted after the coming into operation of this section.

23 Registered office of company

- (1) A company shall at all times have a registered office to which all communications and notices may be addressed.
- (2) The intended situation of a company's registered office on, incorporation shall be specified in the statement delivered prior to incorporation of the company under section 21 above.
- (3) Notice in the prescribed form of any change in the situation of a company's registered office shall be given within fourteen days of the change to the registrar of companies, who shall record the new situation.
- (4) If default is made in complying with subsection (1) or (3) above, the company and every officer of the company who is in default shall be liable to a default fine.
- (5) Section 107 of the Act of 1948 (which is superseded by this section) shall cease to have effect, but notwithstanding its repeal by this Act—
 - (a) where the memorandum of a company has been delivered for registration under section 12 of that Act before the coming into operation of section 21 above, section 107 shall continue to apply so as to require that company to send notice of the situation of its registered office to the registrar of companies within the time there mentioned ; and
 - (b) section 107 shall continue to apply in relation to any change in the situation of a company's registered office which occurred before the coming into operation of this section.
- (6) In section 9(3) of the European Communities Act 1972, for paragraph (e) (official notification of receipt by registrar of notice of the situation of a company's registered office or of any change therein) there shall be substituted—

“(e) any notice of a change in the situation of a company's registered office”;

but this subsection shall not affect the operation of the original paragraph (e) in relation to any notice of the situation of a company's registered office given to the registrar of companies under section 107(2) of the Act of 1948 after the coming into operation of this section.
- (7) Section 21(6) above shall apply as if the requirements of subsection (2) above were included among the requirements of that section.

Disclosure of interests in shares

24 Duty of director to notify company of acquisition, etc. of its securities

- (1) In section 27(3) and (12) and section 31(2) of the Act of 1967 (duty of directors to notify company within fourteen days of acquisition etc. of securities of the company) for the words " fourteen days " wherever they occur there shall be substituted the words " five days ".

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- (2) Subsection (1) above does not affect the time for fulfilling any obligation which arose before the coming into operation of this section.

25 Duty of company to notify recognised stock exchange of acquisition, etc. of its securities by director

- (1) Whenever a company in the case of which shares or debentures are listed on a recognised stock exchange is notified of any matter by a director in consequence of the fulfilment of an obligation imposed on him by section 27 or section 31 of the Act of 1967 (duty of directors to notify company of acquisition etc. of securities of the company), and that matter relates to shares or debentures listed on a recognised stock exchange, the company shall be under an obligation to notify that stock exchange of that matter; and the stock exchange may publish, in such manner as it may determine, any information received by it under this subsection.
- (2) An obligation imposed by subsection (1) above must be fulfilled before the end of the day next following that on which it arises ; but for this purpose, a day which is a Saturday or Sunday or a bank holiday in any part of Great Britain shall be disregarded.
- (3) If default is made in complying with this section, the company and every officer of the company who is in default shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £500 and further to a default fine.
- (4) Proceedings in respect of an offence under this section shall not, in England and Wales, be instituted except by, or with the consent of, the Secretary of State or the Director of Public Prosecutions.

26 Duty to notify company of acquisition, etc. of voting shares

- (1) In section 33 of the Act of 1967 (duty to notify company within fourteen days of acquisition etc. of shares amounting to one tenth or more of relevant share capital) for the words " one tenth" and " fourteen days " wherever they occur, there shall be respectively substituted the words " the prescribed percentage " and " five days ".
- (2) In the said section 33 as amended by subsection Q) above " the prescribed percentage " means 5 per cent. or such other percentage as may from time to time be prescribed for the purposes of that section by regulations made by the Secretary of State by statutory instrument, and different percentages may be so prescribed in relation to companies of different classes or descriptions.
- (3) No regulations shall be made under subsection (2) above unless a draft of the instrument containing the regulations has been laid before Parliament and has been approved by resolution of each House of Parliament.
- (4) In the case of a company which, at the time when this section comes into operation, is one to which the said section 33 applies, every person who at that time is interested in shares comprised in relevant share capital of the company of a nominal value equal to 5 per cent. or more but less than 10 per cent. of the nominal value of that share capital shall be under an obligation to notify the company of the subsistence of his interests at that time and the number of shares comprised in that share capital (specifying it) in which each interest subsists at that time.
- (5) Subsections (4) to (10) of the said section 33 (which relate to the enforcement and interpretation of that section) shall have effect in relation to subsection (4) above as

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they have effect in relation to subsection (2) of that section but as if in subsections (5) and (9) for references to five days there were substituted references to fourteen days and as if in subsection (5) for references to the prescribed percentage there were substituted references to 5 per cent.

(6) If regulations under subsection (2) above come into operation whereby the prescribed percentage for the purposes of the said section 33 is reduced, subsections (4) and (5) above shall apply in the case of a company in relation to which the regulations have effect as in the case there mentioned but with the substitution—

- (a) for references to the time when this section comes into operation of references to the time when the regulations come into operation ; and
- (b) for references to 5 per cent. and 10 per cent. of references to the reduced percentage and the percentage prior to the reduction.

(7) Neither this section nor any regulations made under subsection (2) above shall be construed as requiring the notification by any person of the occurrence of an event before the time when this section or the regulations come into operation; and subsection (1) above does not affect the time for fulfilling any obligation which arose before the time when this section comes into operation.

(8) A person who would, apart from this subsection, be under an obligation, by virtue of subsection (1)(b) of the said section 33, to notify a company of the occurrence of an event shall not be under that obligation if—

- (a) the nominal value of shares comprised in relevant share capital of the company in which he was interested immediately before the event, and
- (b) the nominal value of shares so comprised in which he is interested immediately after the event,

produce, when each of them is expressed as a percentage of the nominal value of that share capital and (as so expressed) is rounded down, if not a whole number, to the nearest such number, the same result.

(9) In subsection (4) of the said section 33, after paragraph (a) there shall be inserted the following paragraph—

- “(aa) an interest as holder of shares of a member of The Stock Exchange who—
 - (i) is recognised by the Council thereof as carrying on the business of a jobber,
 - (ii) carries on that business in the United Kingdom, and
 - (iii) holds the shares for the purposes of that business;”.

(10) For the avoidance of doubt it is hereby declared that where the relevant share capital of a company to which the said section 33 applies is divided into different classes of shares, references in that section and this section to a percentage of the nominal value of its relevant share capital are references to a percentage of the nominal value of the issued shares comprised in each of those classes taken separately.

27 Power of company to require disclosure of beneficial interests in its voting shares

(1) Any company to which section 33 of the Act of 1967 applies (companies with shares listed on a recognised stock exchange) may by notice in writing require any member of the company within such reasonable time as is specified in the notice—

- (a) to indicate in writing the capacity in which he holds any shares comprised in relevant share capital of the company; and

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- (b) if he holds them otherwise than as beneficial owner, to indicate in writing so far as it lies within his knowledge the persons who have an interest in them (either by name and address or by other particulars sufficient to enable those persons to be identified) and the nature of their interest.
- (2) Where a company is informed in pursuance of a notice given to any person under subsection (1) above or under this subsection that any other person has an interest in any shares comprised in relevant share capital of the company, the company may by notice in writing require that other person within such reasonable time as is specified in the notice—
 - (a) to indicate in writing the capacity in which he holds that interest; and
 - (b) if he holds it otherwise than as beneficial owner, to indicate in writing so far as it lies within his knowledge the persons who have an interest in it (either by name and address or by other particulars sufficient to enable them to be identified) and the nature of their interest.
- (3) Any company to which the said section 33 applies may by notice in writing require any member of the company to indicate in writing, within such reasonable time as is specified in the notice, whether any of the voting rights carried by any shares comprised in relevant share capital of the company held by him are the subject of an agreement or arrangement under which another person is entitled to control his exercise of those rights and, if so, to give so far as it lies within his knowledge written particulars of the agreement or arrangement and the parties to it.
- (4) Where a company is informed in pursuance of a notice given to any person under subsection (3) above or under this subsection that any other person is a party to any such agreement or arrangement as is mentioned in subsection (3) above, the company may by notice in writing require that other person within such reasonable time as is specified in the notice to give so far as it lies within his knowledge written particulars of the agreement or arrangement and the parties to it.
- (5) Whenever a company receives information from a person in pursuance of a requirement imposed on him under this section with respect to shares held by a member of the company, it shall be under an obligation to inscribe against the name of that member in a separate part of the register kept by it under section 34 of the Act of 1967 (register of interests in voting shares)—
 - (a) the fact that the requirement was imposed and the date on which it was imposed ; and
 - (b) the information received in pursuance of the requirement.
- (6) Subsections (2) to (9) of the said section 34 (which relate to the manner in which the register is to be made up and provide for public inspection of the register) shall apply in relation to the part of the register referred to in subsection (5) above as they apply in relation to the remainder of the register and as if references to subsection (1) of that section included references to subsection (5) above.
- (7) Subject to subsections (8) and (9) below, any person who—
 - (a) fails to comply with a notice under this section; or
 - (b) in purported compliance with such a notice makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular,shall be guilty of an offence and liable—

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- (i) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or
 - (ii) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £400 or to both.
- (8) A person shall not be guilty of an offence under subsection (7) (a) above if he proves that the information in question was already in the possession of the company or that the requirement to give it was for any other reason frivolous or vexatious.
- (9) A person shall not be obliged to comply with a notice under this section if he is for the time being exempted by the Secretary of State from the operation of this section; but the Secretary of State shall not grant any such exemption except after consultation with the Governor of the Bank of England and unless satisfied that, having regard to any undertaking given by the person in question with respect to the shares held or to be held by him, there are special reasons why that person should not be subject to the obligations imposed by this section.
- (10) In this section "relevant share capital" has the same meaning as in section 33 of the Act of 1967.

Disqualification orders

28 Disqualification for persistent default in relation to delivery of documents to registrar

- (1) Where, on the application of the Secretary of State, it appears to the High Court that a person has been persistently in default in relation to relevant requirements of the Companies Acts, the court may make an order that that person shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned or take part in the management of a company for such period beginning with the date of the order and not exceeding five years as may be specified in the order.

In the preceding provisions of this subsection " the court", in relation to the granting of leave, means any court having jurisdiction to wind up the company as respects which leave is sought, and in the application of this section to Scotland the references in this subsection to the High Court shall be construed as references to the Court of Session.

- (2) Any provision of the Companies Acts which requires any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the registrar of companies is a relevant requirement of the Companies Acts for the purposes of this section.
- (3) For the purposes of this section, the fact that a person has been persistently in default in relation to relevant requirements of the Companies Acts may, subject to subsection (4) below (and without prejudice to its proof in any other manner), be conclusively proved by showing that in the five years ending with the date of the application he has been adjudged guilty (whether or not on the same occasion) of three or more defaults in relation to any such requirements.

A person shall be treated as being adjudged guilty of a default in relation to a relevant requirement of the Companies Acts for the purposes of this subsection if—

- (a) he is convicted of any offence by virtue of any contravention of or failure to comply with any such requirement (whether on his own part or on the part of any company) ; or

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- (b) an order is made against him under section 428 of the Act of 1948 (enforcement of duty of company to make returns to the registrar) or under section 5(1) above.
- (4) No account shall be taken for the purposes of this section of any offence which was committed or, in the case of a continuing offence, began before the date on which this section comes into operation.
- (5) The Secretary of State shall give not less than ten days' notice of his intention to apply for an order under this section to the person against whom the order is sought, and on the hearing of the application that person may appear and himself give evidence or call witnesses.
- (6) On the hearing of any application for an order under this section, or of any application for leave under this section by a person against whom an order under this section has been made, the Secretary of State shall appear and call the attention of the court to any matters which seem to him to be relevant and may himself give evidence or call witnesses.
- (7) If any person acts in contravention of an order under this section he shall in respect of each offence be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding £400 or to both.
- (8) In this section "company" includes an unregistered company (wherever incorporated) within the meaning of Part IX of the Act of 1948.

29 Register of disqualification orders

- (1) The prescribed officer of any court which—
 - (a) makes an order, after the coming into operation of this section, that a person shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned or take part in the management of a company for such period as may be specified in the order, or
 - (b) grants leave in relation to any such order which is so made,shall, at such time and in such manner and form as may be prescribed, furnish the Secretary of State with the prescribed particulars of the order or the grant of leave.

This subsection applies whether the order is made under section 188 of the Act of 1948, section 9 of the Insolvency Act 1976, or section 28 above.
- (2) The Secretary of State shall, from the particulars with which he is furnished under subsection (1) above, maintain a register of such orders and of cases in which the court has granted leave.
- (3) On the expiration of an order of which particulars are entered on the register, the Secretary of State shall delete from the register—
 - (a) those particulars, and
 - (b) any particulars of cases in which the court has granted leave in relation to that order.

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- (4) The register shall be open to inspection on payment of such fee as may be specified by the Secretary of State in regulations made by statutory instrument.
- (5) A statutory instrument containing regulations made under subsection (4) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Companies with registered offices in Wales

30 Companies with registered offices in Wales

- (1) The memorandum of a company registered after the coming into operation of this section may, instead of containing the statement required by section 2(1)(b) of the Act of 1948, contain a statement that the registered office of the company is to be situated in Wales.
- (2) A company registered before the coming into operation of this section whose registered office is situated in Wales may, within the period of twelve months beginning with the coming into operation of this section, by special resolution alter its memorandum so as to provide that the registered office of the company is to be situated in Wales.
- (3) Where after the coming into operation of this section a limited company is to be registered with a memorandum stating that its registered office is to be situated in Wales, the memorandum may, instead of stating the name of the company as required by section 2(1)(a) of the Act of 1948, state the name of the company with " cyfyngedig " as the last word of that name.
- (4) Where the memorandum of a limited company states that its registered office is to be situated in Wales, the approval of the Secretary of State shall not be required for any change of the name of the company which consists only of substituting " cyfyngedig " for " limited " or vice versa.
- (5) Where the name of a limited company has " cyfyngedig " as the last word of that name, the fact that the company is a limited company shall be stated in English and in legible characters—
 - (a) in all prospectuses, bill-heads, letter paper, notices and other official publications of the company ; and
 - (b) in a notice conspicuously displayed in every place in which the company's business is carried on;and if this subsection is contravened the company and every officer of the company who is in default shall be guilty of an offence and liable on summary conviction to a fine not exceeding £50.
- (6) Where after the coming into operation of this section a company is to be registered with a memorandum stating that its registered office is to be situated in Wales, the memorandum and articles to be delivered for registration under section 12 of the Act of 1948 may be in Welsh but, if they are, they shall be accompanied by a certified translation into English; and where a company has altered its memorandum as mentioned in subsection (2) above it may deliver to the registrar of companies for registration a certified translation into Welsh of its memorandum and articles.
- (7) Any company whose memorandum states that its registered office is to be situated in Wales may comply with any provision of the Companies Acts requiring it to deliver

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any document to the registrar of companies by delivering to him that document in Welsh (or, if it consists of a prescribed form, completed in Welsh) together with a certified translation into English; but any document making or evidencing an alteration in the company's memorandum or articles and any copy of a company's memorandum or articles as altered shall be in the same language as the memorandum and articles originally registered and, if that language is Welsh, shall be accompanied by a certified translation into English.

- (8) Where a company has under subsection (6) above delivered a translation into Welsh of its memorandum and articles it may, when delivering to the registrar of companies a document making or evidencing an alteration in the memorandum or articles or a copy of the memorandum or articles as altered, deliver therewith a certified translation into Welsh.
- (9) In this section " certified translation " means a translation certified in the prescribed manner to be a correct translation and any reference to delivering a document shall be construed as including a reference to sending, forwarding, producing or (in the case of a notice) giving it.

Regulation of names used by overseas companies for business purposes

31 Regulation of name under which overseas company may carry on business in Great Britain

- (1) Subject to subsection (2) below, the Secretary of State may, if he is of opinion that it is or would be undesirable for an overseas company to carry on business in Great Britain under its corporate name, cause a notice to that effect to be served on the company by the registrar of companies.
- (2) No notice shall be served on a company under subsection (1) above later than six months after the relevant date or, if that date is before the coming into operation of this section, later than six months after the coming into operation of this section.

In this subsection " relevant date " means the date on which the company has complied with—

- (a) section 407 of the Act of 1948 (documents to be delivered for registration by overseas company when establishing a place of business in Great Britain); or
- (b) if there has been a change in its corporate name, section 409(2) of that Act (return to be delivered for registration by overseas company where corporate name is changed).
- (3) An overseas company on which a notice is served under subsection (1) above may deliver to the registrar of companies for registration a statement in the prescribed form specifying a name approved by the Secretary of State other than its corporate name under which it proposes to carry on business in Great Britain and may, after that name has been registered, at any time deliver to the registrar for registration a statement in the prescribed form specifying a name approved by the Secretary of State other than its corporate name in substitution for the name previously registered.
- (4) The name by which an overseas company is for the time being registered under subsection (3) above shall for all purposes of the law applying in Great Britain (including the Registration of Business Names Act 1916) be deemed to be the corporate name of the company; but this subsection shall not affect references to the corporate name of the company in this section or any rights or obligations of the

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company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its corporate name or its name previously registered under this section may be continued or commenced against it by its name for the time being so registered.

- (5) An oversea company on which a notice is served under subsection (1) above shall not at any time after the expiration of two months from the service of that notice carry on business in Great Britain under its corporate name; and if this subsection is contravened, the company and every officer or agent of the company who knowingly and wilfully authorises or permits the contravention shall be guilty of an offence and liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding £40 for every day during which the contravention continues; but nothing in this subsection shall invalidate any transaction entered into by the company.

32 Amendments of Registration of Business Names Act 1916

- (1) In section 1 of the Registration of Business Names Act 1916 (which requires registration under that Act of persons carrying on business under a business name) after paragraph (d) there shall be inserted—
- “(e) every corporation incorporated outside Great Britain having a place of business in Great Britain and carrying on business under a business name which does not consist of its corporate name without any addition ;”.
- (2) In relation to any such corporation as is mentioned in subsection (1) above the said Act of 1916 shall have effect—
- (a) as if references in sections 3(1), 11 and 15 to its principal place of business were references to its principal place of business in Great Britain;
- (b) as if the reference in section 4 to a director or secretary of the corporation and in section 10(1) to the secretary or any other officer of the corporation performing the duties of secretary included a reference to any person responsible for the management of the business carried on by the corporation in Great Britain or any other officer of the corporation, and the reference in section 19 to every director, secretary and officer of the corporation included a reference to any such person as aforesaid.
- (3) Section 13 of the said Act of 1916 (removal of name from register where person ceases to carry on business) shall apply in relation to any such corporation as is mentioned in subsection (1) above on its ceasing to carry on business in Great Britain as it applies in relation to a company as defined in the Act of 1948 on its ceasing altogether to carry on business, except that the person whose duty it is to give the notice required by subsection (1) of that section shall be every person who, when the corporation ceases to carry on business in Great Britain, is responsible for the management of the business of the corporation carried on in Great Britain or who is then an officer or liquidator of the corporation.
- (4) Section 3(1) of the said Act of 1916 (particulars to be registered) and the proviso to section 5 of that Act (time for registration) shall apply in relation to registration by virtue of the preceding provisions of this section as if references to the passing of that Act were references to the coming into operation of those provisions.

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Contents of prospectus

33 Contents of prospectus

In Schedule 4 to the Act of 1948 (matters to be specified in prospectus etc.), in paragraph 6 after the words " on each share " there shall be inserted the words " including the amount, if any, payable by way of premium " and at the end of that paragraph there shall be inserted the words " including the amount, if any, paid by way of premium " .

Forms, etc.

34 Use of prescribed forms for notices, etc. under Acts of 1948 and 1967

- (1) The provisions of the Acts of 1948 and 1967 specified in Schedule 1 to this Act shall have effect subject to the amendments there specified, being amendments requiring the use of prescribed forms for the purposes of those provisions.
- (2) In so far as any of the forms set out in the Schedule to the Companies (Forms) Order 1949 are forms provided for the purposes of any of the provisions specified in Schedule 1 to this Act, they shall be treated as from the coming into operation of this section as being prescribed by that Order in pursuance of those provisions as amended by Schedule 1.

35 Size, durability and legibility of documents delivered to registrar

- (1) For the purposes of securing that documents delivered to the registrar of companies under the provisions of the Companies Acts are of standard size, durable and easily legible, regulations made by the Secretary of State by statutory instrument may prescribe such requirements (whether as to size, weight, quality or colour of paper, size, type or colouring of lettering, or otherwise) as he may consider appropriate; and different requirements may be so prescribed for different documents or classes of documents.
- (2) If under any such provision there is delivered to the registrar of companies a document (whether being an original document or a copy) which in the opinion of the registrar does not comply with such requirements prescribed under this section as are applicable to it, the registrar may serve on any person by whom under that provision the document was required to be delivered (or, if there are two or more such persons, may serve on any of them) a notice stating his opinion to that effect and indicating the requirements so prescribed with which in his opinion the document does not comply.
- (3) Where the registrar of companies serves a notice under subsection (2) above with respect to a document delivered under any such provision, then, for the purposes of any enactment which enables a penalty to be imposed in respect of any omission to deliver to the registrar of companies a document required to be delivered under that provision (and, in particular, for the purposes of any such enactment whereby such a penalty may be imposed by reference to each day during which the omission continues)—
 - (a) any duty imposed by that provision to deliver such a document to the registrar shall be treated as not having been discharged by the delivery of that document; but

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- (b) no account shall be taken of any days falling within the period mentioned in subsection (4) below.
- (4) The period referred to in subsection (3)(b) above is the period beginning with the day on which the document was delivered to the registrar as mentioned in subsection (2) above and ending with the fourteenth day after the date of service of the notice under subsection (2) above by virtue of which subsection (3) above applies.
- (5) In this section any reference to delivering a document shall be construed as including a reference to sending, forwarding, producing or (in the case of a notice) giving it.

36 Power of registrar to accept information on microfilm, etc.

- (1) The registrar of companies may, if he thinks fit, accept under any provision of the Companies Acts requiring a : document to be delivered to him any material other than a document which contains the information in question and is of a kind approved by him.
- (2) The delivery to the registrar of material accepted by him as aforesaid shall be a sufficient compliance with the provision in question.
- (3) Section 426 of the Act of 1948 (inspection, production and evidence of documents kept by the registrar) shall have effect as if any material so accepted were a document kept by the registrar.
- (4) In this section any reference to delivering a document shall be construed as including a reference to sending, forwarding, producing or (in the case of a notice) giving it.

Fees payable to registrar

37 Fees payable to registrar

- (1) The Secretary of State shall have power by regulations made by statutory instrument to require the payment to the registrar of companies of such fees as may be specified in the regulations in respect of—
 - (a) the performance by the registrar of such functions under the Companies Acts as may be so specified, including the receipt by him of any notice or other document which under those Acts is required to be given, delivered, sent or forwarded to him ;
 - (b) the inspection of documents kept by him under those Acts.
- (2) A statutory instrument containing regulations made under this section requiring the payment of a fee in respect of a matter for which no fee was previously payable or increasing a fee shall be laid before Parliament after being made and shall cease to have effect at the end of the period of twenty-eight days beginning with the day on which the regulations were made (but without prejudice to anything previously done under the regulations or to the making of further regulations) unless at some time before the end of that period the regulations are approved by resolution of each House of Parliament.

In reckoning the period of twenty-eight days mentioned in this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

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- (3) A statutory instrument containing regulations made under this section, not being regulations to which subsection (2) above applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Section 425(1) of the Act of 1948 and section 48 of, and Schedule 3 to, the Act of 1967 (which specify fees payable to the registrar in respect of certain matters) shall cease to have effect.
- (5) Section 425(2) of the Act of 1948 (which provides for the payment into the Consolidated Fund of all fees payable to the registrar in pursuance of that Act) shall apply to fees payable to him in pursuance of this Act.
- (6) It is hereby declared that the registrar may charge a fee for any services provided by him otherwise than in pursuance of an obligation imposed on him by law.

Functions of Secretary of State and registrar

38 Functions of Secretary of State and registrar

- (1) In section 451 of the Act of 1948 (annual report of the Secretary of State on matters within that Act) after the words " this Act " there shall be inserted the words " Parts I and III of the Companies Act 1967, the Companies (Floating Charges and Receivers) (Scotland) Act 1972, section 9 of the European Communities Act 1972 and the Companies Act 1976 ".
- (2) Certificates under sections 13(1), 69(4), 98(2), 106E and 390 of the Act of 1948 shall be authenticated by a seal prepared under section 424(5) of that Act instead of being given under the hand of the registrar of companies.
- (3) Copies or extracts of documents or parts of documents furnished by the registrar of companies under section 426 of the Act of 1948 shall be sealed with a seal prepared under section 424(5) of that Act instead of being certified to be true copies under the hand of the registrar.
- (4) In section 424(6) of the Act of 1948 (functions under that Act to be performed by the registrar or in his absence by persons authorised by the Secretary of State)—
 - (a) after the words " this Act" there shall be inserted the words " or by the Companies Act 1976 "; and
 - (b) the words " in his absence " shall be omitted.

Criminal proceedings and enforcement

39 Criminal proceedings and enforcement

- (1) Sections 440 (default fines), 444 (application of fines) and 449 (power to enforce orders) of the Act of 1948 and section 49(2) to (5) of the Act of 1967 (summary proceedings) shall apply in relation to this Act as they apply in relation to the Act of 1948 and Part I of the Act of 1967.
- (2) The criminal proceedings mentioned in section 111(1)(a) of the Act of 1967 (proceedings for the purposes of which the Secretary of State may disclose information obtained by him under his powers of inspecting a company's books and papers) shall include criminal proceedings pursuant to or arising out of this Act.

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Supplementary provisions

40 Application of this Act to certain companies not formed under the Act of 1948

Part VII of the Act of 1948 (which relates to companies formed or registered under the former Acts there mentioned) and section 394 of that Act (which relates to companies not formed under that Act but registering under it) shall apply for the purpose of the application of the provisions of this Act to such companies as aforesaid as they apply for the purpose of the application thereto of the provisions of the Act of 1948.

41 Application of certain provisions of this Act to unregistered companies

Section 435 of, and Schedule 14 to, the Act of 1948 (which provide for the application of certain provisions of that Act to unregistered companies) shall have effect as if sections 1 to 7, 12 to 19 and 35 of this Act were provisions of that Act and—

- (a) in the case of sections 1 to 7 and 12 to 19, were included among the sections of that Act specified in that Schedule which relate to accounts and audit; and
- (b) in the case of section 35, were included among the provisions of that Act specified in the last entry in column 2 of that Schedule ;

and the reference in the last entry in column 3 of that Schedule to provisions applied by virtue of the foregoing entries in that Schedule shall be construed accordingly.

42 Minor and consequential amendments and repeals

- (1) The enactments mentioned in Schedule 2 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.
- (2) Subject to sections 7(3), 14(12) and 23(5) above and to subsection (3) below, the enactments mentioned in Schedule 3 to this Act (which include spent enactments) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Nothing in the repeals made by this Act shall affect the operation of any enactment repealed in relation to any offence—
 - (a) for which a penalty was before the date on which the repeal comes into operation provided by reference to the days during which the offence had continued ; and
 - (b) which is continuing at, but began before, that date.

43 Expenses

Any administrative expenses incurred by the Secretary of State by virtue of this Act shall be defrayed out of moneys provided by Parliament.

44 Interpretation

- (1) In this Act—
 - " the Act of 1948 " means the Companies Act 1948 ;
 - " the Act of 1967 " means the Companies Act 1967 ;
 - " the Companies Acts " means the Acts which under section 45(2) below may be cited together as the Companies Acts 1948 to 1976 ; and

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" overseas company " has the meaning given in section 9(1) above.

- (2) Except in so far as the context otherwise requires, any expression to which a meaning is assigned by the Act of 1948 for the purposes of that Act has that meaning also for the purposes of this Act.
- (3) References in this Act to a body corporate shall be construed as not including a corporation sole or a Scottish firm but as including a company incorporated outside Great Britain.
- (4) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment, including this Act.
- (5) Any reference in the Act of 1948, the Act of 1967 or any other Act passed before this Act to an enactment which is amended by this Act shall, unless the context otherwise requires, be construed as referring to that enactment as so amended.

45 Short title, citation, commencement and extent. Schedules:

- (1) This Act may be cited as the Companies Act 1976.
- (2) The Companies Act 1948, Parts I and III of the Companies Act 1967, The Companies (Floating Charges and Receivers) (Scotland) Act 1972, section 9 of the European Communities Act 1972, sections 1 to 4 of the Stock Exchange (Completion of Bargains) Act 1976, section 9 of the Insolvency Act 1976 and this Act may be cited together as the Companies Acts 1948 to 1976.
- (3) This Act shall come into operation on such date as may be specified by the Secretary of State by order made by statutory instrument, and different dates may be so specified for different provisions and for different purposes.
- (4) Nothing in this Act except the provisions which relate to companies incorporated outside Great Britain shall apply to or in relation to companies registered or incorporated in Northern Ireland; and nothing in this Act shall affect the law in force in Northern Ireland at the passing of this Act.