



# Companies Act 1985

## 1985 CHAPTER 6

### PART VII

#### ACCOUNTS AND AUDIT

### CHAPTER II

#### *EXEMPTIONS, EXCEPTIONS AND SPECIAL PROVISIONS*

*[<sup>F1</sup> Exemptions from audit for certain categories of small company]*

#### **Textual Amendments**

**F1** Ss. 249A-249E and preceding cross-heading inserted (11.8.1994) by S.I. 1994/1935, reg. 2

#### **<sup>F2</sup>249A Exemptions from audit**

- (1) Subject to section 249B, a company which meets the total exemption conditions set out below in respect of a financial year is exempt from the provisions of this Part relating to the audit of accounts in respect of that year.
- (2) Subject to section 249B, [<sup>F3</sup>a company which is a charity and] which meets the report conditions set out below in respect of a financial year is exempt from the provisions of this Part relating to the audit of accounts in respect of that year if the directors cause a report in respect of the company's individual accounts for that year to be prepared in accordance with section 249C and made to the company's members.
- (3) The total exemption conditions are met by a company in respect of a financial year if—
  - (a) it qualifies as a small company in relation to that year for the purposes of section 246,
  - (b) its turnover in that year is not more than [<sup>F4</sup>£1 million], and
  - (c) its balance sheet total for that year is not more than £1.4 million.

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- [<sup>F5</sup>(3A) In relation to any company which is a charity, subsection (3)(b) shall have effect with the substitution—
- (a) for the reference to turnover of a reference to gross income, and
  - (b) for the reference to [<sup>F6</sup>£1 million] of a reference to £90,000.]
- (4) The report conditions are met by [<sup>F7</sup>a company which is a charity] in respect of a financial year if—
- (a) it qualifies as a small company in relation to that year for the purposes of section 246,
  - (b) its [<sup>F8</sup>gross income] in that year is more than £90,000 but not more than [<sup>F9</sup>£250,000], and
  - (c) its balance sheet total for that year is not more than £1.4 million.
- <sup>F10</sup>(5) .....
- (6) For a period which is a company’s financial year but not in fact a year the maximum figures for turnover or gross income shall be proportionately adjusted.
- [<sup>F11</sup>(6A) A company is entitled to the exemption conferred by subsection (1) or (2) notwithstanding that it falls within paragraph (a) or (b) of [<sup>F12</sup>section 249AA(1)].]
- (7) In this section—
- “balance sheet total” has the meaning given by section 247(5), and
- “gross income” means the company’s income from all sources, as shown in the company’s income and expenditure account

#### Textual Amendments

- F2** Ss. 249A-249E and preceding cross-heading inserted (11.8.1994) by S.I. 1994/1935, **reg. 2**
- F3** Words in s. 249A(2) substituted (15.4.1997) by S.I. 1997/936, **reg. 2(2)**
- F4** Words in s. 249A(3)(b) substituted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 2(1)(2)**
- F5** Words in s. 249A(3A) inserted (15.4.1997) by S.I. 1997/936, **reg. 2(4)**
- F6** Words in s. 249A(3A)(b) substituted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 2(1)(2)**
- F7** Words in s. 249A(4) substituted (15.4.1997) by S.I. 1997/936, **reg. 2(5)(a)**
- F8** Words in s. 249A(4)(b) substituted (15.4.1997) by S.I. 1997/936, **reg. 2(5)(b)(i)**
- F9** Words in s. 249A(4)(b) substituted (15.4.1997) by S.I. 1997/936, **reg. 2(5)(b)(ii)**
- F10** S. 249A(5) substituted (15.4.1997) by S.I. 1997/936, **reg. 2(6)**
- F11** S. 249(6A) inserted (*retrospectively*) by S.I. 1997/936, **reg. 2(7)(8)**
- F12** Words in s. 249A(6A) substituted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 2(1)(3)**

#### [<sup>F13</sup>249A] Dormant companies

- (1) Subject to section 249B(2) to (5), a company is exempt from the provisions of this Part relating to the audit of accounts in respect of a financial year if—
- (a) it has been dormant since its formation, or
  - (b) it has been dormant since the end of the previous financial year and subsection (2) applies.

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- (2) This subsection applies if the company—
  - (a) is entitled in respect of its individual accounts for the financial year in question to prepare accounts in accordance with section 246, or would be so entitled but for the application of section 247A(1)(a)(i) or (b), and
  - (b) is not required to prepare group accounts for that year.
- (3) Subsection (1) does not apply if at any time in the financial year in question the company was—
  - (a) a banking or insurance company, or
  - (b) an authorised person for the purposes of the Financial Services Act 1986.
- (4) A company is “dormant” during any period in which it has no significant accounting transaction.
- (5) “Significant accounting transaction” means a transaction which—
  - (a) is required by section 221 to be entered in the company’s accounting records; but
  - (b) is not a transaction to which subsection (6) or (7) applies.
- (6) This subsection applies to a transaction arising from the taking of shares in the company by a subscriber to the memorandum as a result of an undertaking of his in the memorandum.
- (7) This subsection applies to a transaction consisting of the payment of—
  - (a) a fee to the registrar on a change of name under section 28 (change of name),
  - (b) a fee to the registrar on the re-registration of a company under Part II (re-registration as a means of altering a company’s status),
  - (c) a penalty under section 242A (penalty for failure to deliver accounts), or
  - (d) a fee to the registrar for the registration of an annual return under Chapter III of Part XI.]

#### Textual Amendments

**F13** S. 249AA inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, arts. 1(2), 3

#### <sup>F14</sup>249B Cases where exemptions not available

- (1) [<sup>F15</sup>Subject to [<sup>F16</sup>subsections (1A) to (1C)],]A company is not entitled to the exemption conferred by subsection (1) or (2) of section 249A in respect of a financial year if at any time within that year—
  - (a) it was a public company,
  - (b) it was a banking or insurance company
  - (c) it was enrolled in the list maintained by the Insurance Brokers Registration Council under section 4 of the Insurance Brokers (Registration) Act 1977,
  - (d) it was an authorised person or an appointed representative under the Financial Services Act 1986,
  - (e) it was a special register body as defined in section 117(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 or an employers’ association as defined in section 122 of that Act, or

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(f) it was a parent company or a subsidiary undertaking.

[<sup>F17</sup>(1A) A company which, apart from this subsection, would fall within subsection (1)(f) by virtue of its being a subsidiary undertaking for any period within a financial year shall not be treated as so falling if it is dormant (within the meaning of [<sup>F18</sup>section 249AA]) throughout that period.]

[<sup>F19</sup>(1B) A company which, apart from this subsection, would fall within subsection (1)(f) by virtue of its being a parent company or a subsidiary undertaking for any period within a financial year, shall not be treated as so falling if throughout that period it was a member of a group meeting the conditions set out in subsection (1C).

(1C) The conditions referred to in subsection (1B) are—

- (a) that the group qualifies as a small group, in relation to the financial year within which the period falls, for the purposes of section 249 [<sup>F20</sup>(or if all bodies corporate in such group were companies, would so qualify)] and is not, and was not at any time within that year, an ineligible group within the meaning of section 248(2),
- (b) that the group's aggregate turnover in that year (calculated in accordance with section 249) is [<sup>F21</sup>, where the company referred to in subsection (1B) is a charity,] not more than £350,000 net (or £420,000 gross) [<sup>F22</sup>or, where the company so referred to is not a charity, not more than £1 million net (or £1.2 million gross)], and
- (c) that the group's aggregate balance sheet total for that year (calculated in accordance with section 249) is not more than £1.4 million net (or £1.68 million gross).]

(2) Any member or members holding not less in the aggregate than 10 per cent in nominal value of the company's issued share capital or any class of it or, if the company does not have a share capital, not less than 10 per cent in number of the members of the company, may, by notice in writing deposited at the registered office of the company during a financial year but not later than one month before the end of that year, require the company to obtain an audit of its accounts for that year

(3) Where a notice has been deposited under subsection (2), the company is not entitled to the exemption conferred by subsection (1) or (2) of section 249A [<sup>F23</sup>or by subsection (1) of section 249AA] in respect of the financial year to which the notice relates

(4) A company is not entitled to the exemption conferred by subsection (1) or (2) of section 249A [<sup>F24</sup>or by subsection (1) of section 249AA] unless its balance sheet contains a statement by the directors—

(a) [<sup>F25</sup>to the effect]that for the year in question the company was entitled to exemption under subsection (1) or (2) <sup>F26</sup>. . . of section 249A [<sup>F27</sup>or subsection (1) of section 249AA],

[<sup>F28</sup>(b) to the effect that members have not required the company to obtain an audit of its accounts for the year in question in accordance with subsection (2) of this section]

(c) [<sup>F25</sup>to the effect]that the directors acknowledge their responsibilities for—

- (i) ensuring that the company keeps accounting records which comply with section 221, and
- (ii) preparing accounts which give a true and fair view of the state of affairs of the company as at the end of the financial year and

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of its profit or loss for the financial year in accordance with the requirements of section 226, and which otherwise comply with the requirements of this Act relating to accounts, so far as applicable to the company.

- (5) The statement required by subsection (4) shall appear in the balance sheet [<sup>F29</sup>above the signature required by section 233] required by section 233 or, as the case may be, above any statement required by section 246(1A) or by paragraph 23 of Schedule 8.

#### Textual Amendments

- F14** Ss. 249A-249E and preceding cross-heading inserted (11.8.1994) by S.I. 1994/1935, **reg. 2**
- F15** Words in s. 249B(1) inserted (2.2.1996) by S.I. 1996/189, **reg. 10(2)**
- F16** Words in s. 249B(1) substituted (15.4.1997) by S.I. 1997/936, **reg. 3(2)**
- F17** S. 249B(1A) inserted (2.2.1996) by S.I. 1996/189, **reg. 10(3)**
- F18** Words in s. 249B(1A) substituted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(2)**
- F19** S. 249B(1C)(1D) inserted (15.4.1997) by S.I. 1997/936, **reg. 3(3)**
- F20** Words in s. 249B(1C)(a) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(3)(a)**
- F21** Words in s. 249B(1C)(b) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(3)(b)(i)**
- F22** Words in s. 249B(1C)(b) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(3)(b)(ii)**
- F23** Words in s. 249B(3) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(4)**
- F24** Words in s. 249B(4) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(5)(a)**
- F25** Words in s. 249B(4)(a)-(c) inserted (2.2.1996) by S.I. 1996/189, **reg. 10(4)**
- F26** Words in s. 249B(4)(a) omitted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by virtue of S.I. 2000/1430, **arts. 1(2), 4(1)(5)(b)**
- F27** Words in s. 249B(4)(a) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(5)(b)**
- F28** S. 249B(4)(b) substituted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, **arts. 1(2), 4(1)(5)(c)**
- F29** Words in s. 249B(5) substituted (2.2.1996) by S.I. 1996/189, **reg. 10(5)**

#### <sup>F30</sup>249C The report required for the purposes of section 249A(2).

- (1) The report required for the purposes of section 249A(2) shall be prepared by a person (referred to in this Part as “the reporting accountant”) who is eligible under section 249D
- (2) The report shall state whether in the opinion of the reporting accountant making it—
- the accounts of the company for the financial year in question are in agreement with the accounting records kept by the company under section 221, and
  - having regard only to, and on the basis of, the information contained in those accounting records, those accounts have been drawn up in a manner consistent with the provisions of this Act specified in subsection (6), so far as applicable to the company.

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- (3) The report shall also state that in the opinion of the reporting accountant, having regard only to, and on the basis of, the information contained in the accounting records kept by the company under section 221, the company satisfied the requirements of subsection (4) of section 249A<sup>F31</sup> . . . for the financial year in question, and did not fall within section 249B(1)(a) to (f) at any time within that financial year
- (4) The report shall state the name of the reporting accountant and be signed by him
- (5) Where the reporting accountant is a body corporate or partnership, any reference to signature of the report, or any copy of the report, by the reporting accountant is a reference to signature in the name of the body corporate or partnership by a person authorised to sign on its behalf
- (6) The provisions referred to in subsection (2)(b) are—
- (a) section 226(3) and Schedule 4,
  - (b) section 231 and paragraphs 7 to 9A and 13(1), (3) and (4) of Schedule 5, and
  - (c) section 232 and Schedule 6,
- where appropriate as modified by [<sup>F32</sup>section 246(2) and (3)].

#### **Textual Amendments**

**F30** Ss. 249A-249E and preceding cross-heading inserted (11.8.1994) by S.I. 1994/1935, **reg. 2**

**F31** Words in s. 249C(3) omitted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by virtue of S.I. 2000/1430, **arts. 1(2), 8(3)**

**F32** Words in s. 249C(6) substituted (1.3.1997) by S.I. 1997/220, **reg. 7(3)**

#### **<sup>F33</sup>249D The reporting accountant**

- [<sup>F34</sup>(1) The reporting accountant shall be either—
- (a) any member of a body listed in subsection (3) who, under the rules of the body—
    - (i) is entitled to engage in public practice, and
    - (ii) is not ineligible for appointment as a reporting accountant, or
  - (b) any person (whether or not a member of any such body) who—
    - (i) is subject to the rules of any such body in seeking appointment or acting as auditor under Chapter V of Part XI, and
    - (ii) under those rules, is eligible for appointment as auditor under that Chapter.

- (1A) In subsection (1), references to the rules of a body listed in subsection (3) are to the rules (whether or not laid down by the body itself) which the body has power to enforce and which are relevant for the purposes of Part II of the Companies Act 1989 or this section.

This includes rules relating to the admission and expulsion of members of the body, so far as relevant for the purposes of that Part or this section.]

- (2) An individual, a body corporate or a partnership may be appointed as a reporting accountant, and section 26 of the Companies Act 1989 (effect of appointment of partnership) shall apply to the appointment as reporting accountant of a partnership

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constituted under the law of England and Wales or Northern Ireland, or under the law of any other country or territory in which a partnership is not a legal person

- (3) The bodies referred to in [<sup>F35</sup>subsections (1) and (1A)] are—
- (a) the Institute of Chartered Accountants in England and Wales,
  - (b) the Institute of Chartered Accountants of Scotland,
  - (c) the Institute of Chartered Accountants in Ireland,
  - (d) [<sup>F36</sup>the Association of Chartered Certified Accountants], <sup>F37</sup> . . .
  - (e) the Association of Authorised Public Accountants.
  - [<sup>F38</sup>(f) the Association of Accounting Technicians,
  - <sup>F38</sup>(g) the Association of International Accountants, and
  - <sup>F38</sup>(h) the Chartered Institute of Management Accountants.]
- (4) A person is ineligible for appointment by a company as reporting accountant if he would be ineligible for appointment as an auditor of that company under section 27 of the Companies Act 1989 (ineligibility on ground of lack of independence).

#### Textual Amendments

- F33** Ss. 249A-249E and preceding cross-heading inserted (11.8.1994) by S.I. 1994/1935, **reg. 2**
- F34** S. 249D(1)(1A) substituted (30.3.1995) for s. 249D(1) by S.I. 1995/589, **reg. 2(1)(2)**
- F35** Words in s. 249D(3) substituted (30.3.1995) for s. 249D(3) by S.I. 1995/589, **reg. 2(1)(3)**
- F36** Words in s. 249D(3)(d) substituted (15.4.1997) by S.I. 1997/936, **reg. 4(2)**
- F37** Word in s. 249D(3)(d) omitted (1.1.1997) by virtue of S.I. 1996/3080, **art. 2(2)(a)**
- F38** S. 249D(3)(f)-(h) inserted (1.1.1997) by S.I. 1996/3080, **reg. 2(2)(b)**

#### <sup>F39</sup>249E Effect of exemptions

- (1) Where the directors of a company have taken advantage of the exemption conferred by section 249A(1) [<sup>F40</sup>or 249AA(1)]—
- (a) sections 238 and 239 (right to receive or demand copies of accounts and reports) shall have effect with the omission of references to the auditors' report;
  - (b) no copy of an auditors' report need be delivered to the registrar or laid before the company in general meeting;
  - (c) subsections (3) to (5) of section 271 (accounts by reference to which distribution to be justified) shall not apply.
- [<sup>F41</sup>(1A) Where the directors of a company have taken advantage of the exemption conferred by section 249AA, then for the purposes of that section the company shall be treated as a company entitled to prepare accounts in accordance with section 246 even though it is a member of an ineligible group.]
- (2) Where the directors of a company have taken advantage of the exemption conferred by section 249A(2)—
- (a) subsections (2) to (4) of section 236 (which require copies of the auditors report to state the names of the auditors) shall have effect with the substitution for references to the auditors and the auditors' report of references to the reporting accountant and the report made for the purposes of section 249A(2) respectively;

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- (b) sections 238 and 239 (right to receive or demand copies of accounts and reports), section 241 (accounts and reports to be laid before company in general meeting) and section 242 (accounts and reports to be delivered to the registrar) shall have effect with the substitution for references to the auditors' report of references to the report made for the purposes of section 249A(2);
- (c) subsections (3) to (5) of section 271 (accounts by reference to which distribution to be justified) shall not apply;
- (d) section 389A(1) and (2) (rights to information) shall have effect with the substitution for references to the auditors of references to the reporting accountant.

#### Textual Amendments

- F39** Ss. 249A-249E and preceding cross-heading inserted (11.8.1994) by S.I. 1994/1935, reg. 2
- F40** Words in s. 249E(1) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, arts. 1(2), 8(4)
- F41** S. 249E(1A) inserted (26.5.2000 with application as mentioned in art. 1(2) of the amending S.I.) by S.I. 2000/1430, arts. 1(2), 8(5)



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